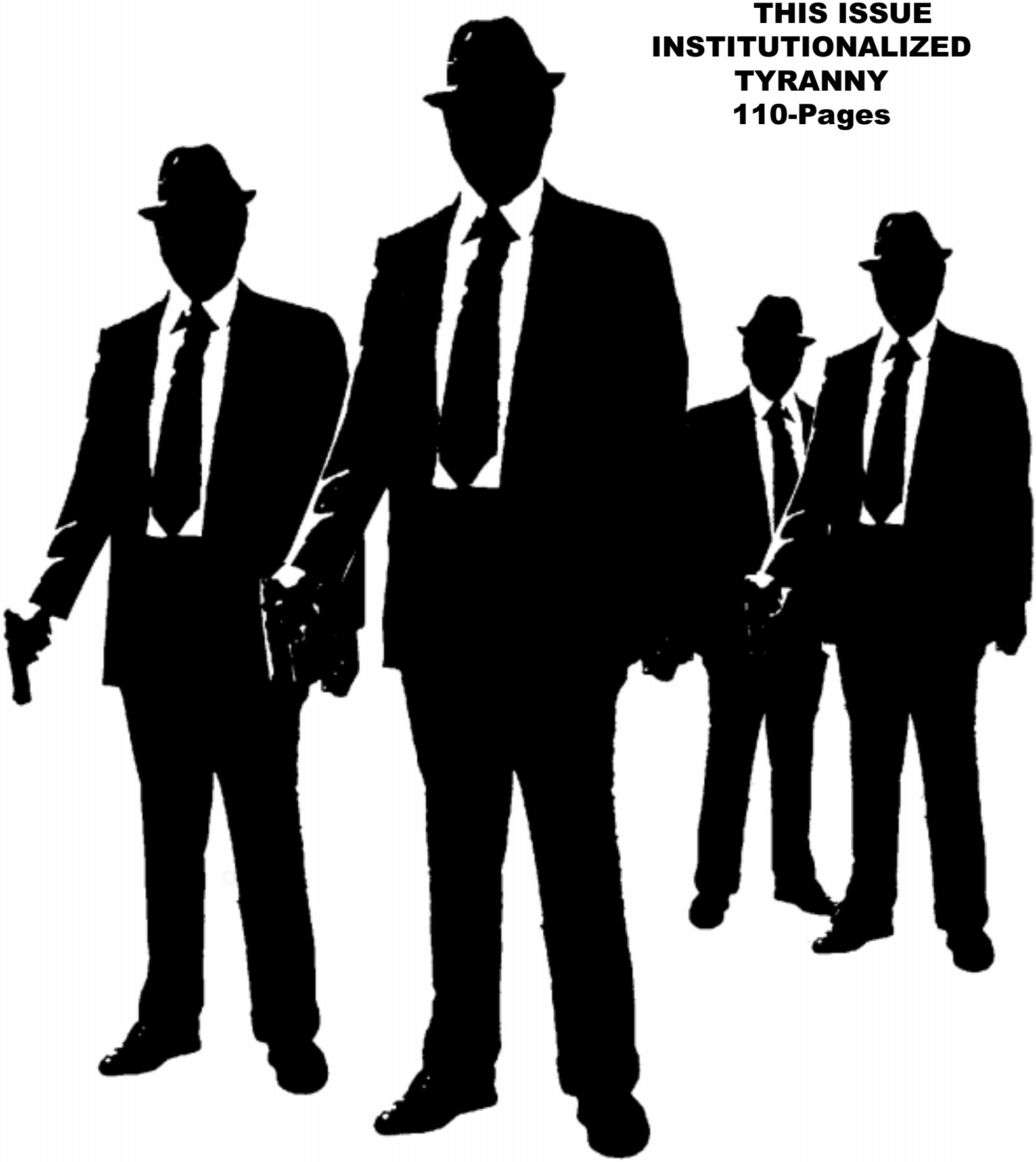
THE REPORT

THIS ISSUE
INSTITUTIONALIZED
TYRANNY
110-Pages



INSTITUTIONALIZED TYRANNY
THE CHARACTER & COLOR OF AUTHORITY
(REVISION 4 — OCT. 20, 1998)
BY DAN MEADOR

This work documents elements of a scheme known as Cooperative Federalism that for the last half century has placed the American people under edict of private courts and has compromised virtually all State and Federal enforcement authority. Sections of the work demonstrate proper application of Federal drug and tax laws.

The Avenger Comes

I

As certainly as the dawn of new day, the Avenger comes,
but we cannot see him, and know not his character,
for darkness that engulfs us blinds our sight.
Is he a man of God; Christ Jesus come again?
or is he vengeful after his own cause, an Inquisitor,
who will inflict terror on those who oppose his rule?
We who seek and pray for justice must turn to God
for his solace is the hope of multitudes;
we must be diligent in our labors,
for the day of Righteousness comes.
But who approaches the near horizon —
the Son of Man, or another would-be god?

II

We stand at the gates of Babylon, her secrets exposed;
we have defrocked black-robed pretenders
who inflict the rule of private courts,
and have unraveled the myth of convoluted law.
These truths cannot be defamed — they are candles
set in the midst of reprobates.
It is for them that the Avenger comes.

III

We who seek justice have touched the face of grief,
asking mercy for neighbor and friend;
we have labored to secure and expose the truth,
but have been rebuffed by proud, sanctimonious liars
who bloat themselves on pirated fruits,
the spoils of countrymen and kin.
How shall we greet the Avenger who comes?
Shall we demand justice, or again ask mercy,
That the reprobate, or at least his attendant, be spared?
Dan Meador; February 24, 1998;
FMC-Lexington, at Lexington, Kentucky

Introduction

In the last decade, increasing numbers have joined the effort to unravel how Federal, State, and local governments make what amount to end runs around constitutional limitations. The purpose of this composition is to bring the fruit of the best research into focus, and construct a reasonably comprehensive picture of the macabre scheme that undermines sovereignty and solvency of the nation.

As the original and first revision of this discourse circulated, other people began responding with additional research and constructive criticism, making expansion and more authoritative detail possible. Particular thanks go to Paul Mitchell, Timothy McCrory, and J. Halsbrook. Those who made factual and conceptual breakthroughs that contributed to the original composition are too numerous to name.

Dale Pond of Tulsa, Oklahoma edited the original and has continued to review each revision with the objective of helping frame technical material dredged from tens of thousands of pages of historical documents and government legalese so most any literate person can read and grasp both substance and implications of possibly the most diabolical scheme ever perpetrated against a developed nation.

A mere "thank you" is inadequate for my wife, Gail, who has endured humiliation and hardship since approximately 1995, and the many generous, patriotic people who have made the continuing effort to unearth and expose truth possible.

Gail and I share a life calling — Christian ministry. We believe our nation was established in a unique historical moment, and that the Constitution of the United States emerged as a divinely inspired compact to serve widely divergent interests. It was not something fabricated out of thin air. Massachusetts Bay Colony established the first American constitution for civil government in 1636, basing it on precepts set out in the Mayflower Compact, signed by Pilgrims when they first arrived at Plymouth Colony in 1620, so the fledgling nation had over a century and a half of experience with written constitutions before the Constitution of the United States was drafted in 1787. While the Constitution does not specifically credit God as ultimate authority, many of the men who participated in the Constitutional Convention were also delegates to the Second Continental Congress, and had signed the Declaration of Independence, pledging lives, fortunes, and sacred honor to the cause of liberty.

The Declaration of Independence justified severance from British rule by the "Laws of

Nature and Nature's God" — physical and moral law man can neither author nor amend. These are the two great branches of natural law, acknowledged since time memorial even in civilizations that did not worship the Creator God acknowledged by Christian and Jewish religions. The Constitution preserves these principles by recognizing sovereignty of the people and preserving unalienable rights articulated in the Declaration of Independence. The Constitution must be understood in this context, the lineage being approximately six prior centuries in which principles of English-American common law were time-tested, proven, and articulated.

Central to this understanding is that nobody is above the law, and no manmade law contrary to the Laws of Nature and Nature's God is or can be legitimate as it is destructive to the body politic and the cultural fabric. Those who usurp power not enumerated in and specifically delegated by the Constitution are in rebellion against man, nature and God — they are reprobate. As they pursue self-serving ends, they breach public trust, threaten peace and domestic tranquillity, and cause injury to countryman and kin. In the end, they bring destruction on themselves as history has proven time and again that tyranny has no friends.

While this effort addresses details of the scheme that undermines and compromises the sovereign American people, Gail and I stand firm in the belief that God blessed America from the beginning, and in the latter Twentieth Century, is exposing the fraud through people prepared for and appointed to the task. The means of peaceful correction can and should be primarily through exposure — documentation and disclosure of truth. Truth will ultimately prevail.

Ponca City, Oklahoma

The Scheme & Its Effect

Governments of the United States, the Union of several States, and possessions of the United States are embroiled in a scheme known as Cooperative Federalism, sometimes identified simply as Federalism. The nonconstitutional scheme presumes that each of the several States is an instrumentality of the United States on a par with insular possessions of the United States1, rather than semi-independent State republics, (1) restricted only by constitutional prohibitions and mandates, and (2) subject only to constitutionally-enumerated powers of the United States.

This scheme was made possible by emergence of a second government. Yet even today, those not familiar with the two capacities of United States government find it difficult to grasp implications. However, some who held responsible positions when the second or shadow government emerged saw the danger. Justice Harlan, a justice on the Supreme Court of the United States, was among them. One of his more lucid criticisms was written in his dissenting opinion in Downes v. Bidwell (1901), the first of four insular tax cases that provided a conceptual platform for the current de facto (authority in fact, but without law) system that engulfs not only insular possessions of the United States, but State republics party to the Constitution:

> The idea prevails with some — indeed, it found expression in arguments at the bar — that we have in this country substantially or practically two national governments, one to be maintained under the constitution, with all its restrictions; the other to be maintained by Congress outside and independently of that instrument, by exercising such

powers as other nations of the earth are accustomed to exercise. It is one thing to give such a latitudinarian construction to the Constitution as will bring the exercise of power by Congress, upon a particular occasion or upon a particular subject, within its provisions. It is quite a different thing to say that Congress may, if it so elects, proceed outside the Constitution. The glory of our American system of government is that it was created by a written constitution which protects the people against the exercise of arbitrary, unlimited power, and the limits of which instrument may not be passed by the government it created, or by any branch of it, or even by the people who ordained it, except by amendment or change of its provisions.2

The United States, via constitutionally-delegated powers which are statutorily activated by Congress, carries out certain responsibilities in relation to the several States party to the Constitution and the people of the several States, but Congress has what is described as plenary or near-absolute power in territory belonging to the United States. The insular tax cases addressed a unique situation: Insular possessions ceded by Spain in 1898 following the Spanish-American War were the first territories acquired by the United States where the cession treaty did not incorporate the territory and people in the constitutional scheme. Consequently, the Philippines, Puerto Rico, and other provinces ceded by Spain were to become more like British Crown colonies than territory previously acquired by the United States. Other insular possessions acquired since have not been incorporated in the constitutional scheme, either.

This division, and limited application of the Constitution, was what alarmed Justice Harlan and others who clearly understood that a house divided cannot stand — that the "permissive" would eventually overcome the "restrictive" government. They were correct. Cooperative Federalism, known as Corporatism into the 1930s, evolved to crowd out legitimate government required to operate within the confines of constitutionally-enumerated powers. An idyllic view of the scheme was articulated by the Supreme Court in Shapiro v. Thompson (1969):

> The Great Depression of the 1930's exposed the inadequacies of state and local welfare programs and dramatized the need for federal participation in welfare assistance. Congress determined that the Social Security Act, containing a system of unemployment and old-age insurance as well as the categorical assistance programs now at issue, was to be a major step designed to ameliorate the problems of economic insecurity. The primary purpose of the categorical assistance programs was to encourage the States to provide new and greatly enhanced welfare programs. Federal aid would mean an immediate increase in the amount of benefits paid under state programs. But federal aid was to be conditioned upon certain requirements so that the States would remain the basic administrative units of the welfare system and would be unable to shift the welfare burden to local governmental units with inadequate financial resources. Significantly, the categories of assistance programs created by the Social Security Act corresponded to those already in existence in a number of States. Federal entry into the welfare area can therefore be best described as a major experiment in "cooperative federalism" King v. Smith, 392 U.S. 309, 317, 88 S.Ct. 2128, 2133, 20 L.Ed.2d 1118 (1968), combining state and federal participation to solve the problems of the depression.3

Since the 1930s great depression and World War II, fraudulent economic policy, and mathematically impossible credit and monetary systems, have undermined American

sovereignty and solvency, resulting in agonizing rural poverty and cancerous growth of the urban ghetto. The effect of wealth transfer since the early 1970s has all but destroyed the nation's middle and upper-middle income classes. Benefits flow to only about twenty percent of the population, while windfalls funnel to the wealthiest quarter of one percent. By the end of the 1980s, the Cooperative Federalism system of frauds had ripened to such decadence that it criminalizes tens of thousands without lawful, constitutionally delegated authority, and otherwise engages in thinly disguised piracy perpetrated against many thousands more. Absolutely nobody is safe — government seeks to control life of virtually all Americans from cradle to grave. Aside from specific industries, the economic assault has been particularly injurious to two broad classes, children and subsequent lineage of the Post War Boomers, and minorities of color.

Distress from the increasingly confrontational system is sufficient that every legitimate key-question survey since 1990 has reflected that sixty percent or more of the nation's eligible voters distrusts politicians and political institutions down to and including local school boards. By September 1995, the distrust level topped 72%, and by May 1996, went over 80%; in November 1996, only 49% of the nation's registered voters bothered to vote, which was a distressing number due largely to only 35-40% of those eligible to vote having even registered. Consequently, few politicians elected in November 1996, including the President of the United States, represent much more than 10% of the eligible voters in their respective districts. As the last decade of the Twentieth Century draws to an end, national, state, and local governments are probably less representative of the people than at any time since Congress convened under the Constitution in 1789.4

In a more pointed survey, approximately 35% of those interviewed expressed manifest and rising anger toward Federal government. The summer 1998 survey abated some from a year earlier, but politicians such as Vice President Al Gore are concerned that what was previously articulated as anger has simply turned to cynicism, in many ways a more dangerous and enduring mindset. Those cynical and angry toward Federal government constitute a significant force approaching half the nation's adult population.

These surveys contradict pomp and circumstance proclaiming all is well. Americans aren't indifferent to personal and national welfare, generation of wealth, and sovereignty. The vast majority knows something is desperately wrong, but has been mystified and immobilized by the de facto scheme woven in the craft of wordsmiths and other means of deception which has evolved since approximately the Civil War, with what amounted to a constitutional coup de grace in the 1930s.

Encroachment has continued at a steady to accelerating pace since, hitting high gear in 1966 and after. By 1990, State and Federal governments incarcerated more people in total numbers and on a per-capita basis than any other nation in the world other than South Africa and the old Soviet Union — prison industries had become the nation's fifth largest industry. The Department of Justice, to say nothing of corresponding State agencies, the Internal Revenue Service, and other Federal agencies, routinely seizes and/or confiscates in excess of $50 billion per year in privately-owned American assets.5 This frenzy has gone so overboard that by late 1997 and early 1998, even The Wall Street Journal, Forbes Magazine, and other influential mainline magazines and newspapers were publishing critical articles. In 1998, American incarceration numbers, now at 1.2 million nationally, and in excess of 113,000 in the Federal system, rank second in the world, with

the former Soviet Union having the dubious honor of ranking first.

The combined force of adverse economic policy, and abusive administrative, and civil and criminal prosecution initiatives, is rapidly reaching critical mass — a point where general civil disobedience, and eventually revolution, is inevitable unless something happens to alleviate mounting conflict. Common people feel alienated from and defenseless against their government, symptoms which characteristically lead to backlash and violent confrontation. This is the course of nations and empires throughout history, with nineteen of twenty-one known empires prior to 1935 having fallen from within due to economic collapse and destruction of key social institutions.6

Proper enforcement of law has the potential of averting disaster. Cooperative Federalism is imposed through fraud and illusion — perpetrators operate in a de facto manner without lawful authority, so they are subject to criminal prosecution and civil remedies in lawful State and Federal courts. The problem is forcing those appointed or elected to judicial offices to convene constitutionally-authorized courts, or removing them from office so successors will.

Thanks to work of patriotic researchers across the nation, keys to unraveling convoluted State and Federal Codes are soundly in place. With solid conceptual footing, energy can be focused on untangling the maze, then deploying strategies to peacefully and lawfully correct the system. Scripture speaks to the matter in two contexts which are fundamental to the effort: The reprobate will be caught in his own snare, and in his second letter to Timothy, the Apostle Paul foretold that the reprobate would proceed no further as he would be exposed for all the world to see. These two approaches are fundamental to peacefully restoring constitutional rule.7

The Least Common Denominators

Virtually every Federal initiative in the Union of several States in both civil and criminal actions is defective by virtue of being without lawful authority. All cases are prosecuted in United States District Courts8 in the name and by authority of the United States of America. At first blush, these facts seem legitimate and innocent enough, but the underlying difficulty is akin to remembering if the order of stripes on the deadly coral snake is red then black, or red then yellow. The "United States District Court" isn't what it seems; the "United States of America" isn't what it seems, either.

These are fatal flaws. Only district courts of the United States, as defined at 28 U.S.C. § 4519 (Section 451 of Title 28 of the United States Code), and three remaining territorial courts10, are courts of the United States. United States District Courts situated in the Union of several States are private courts; they do not exercise Article III or Article I (legislative-territorial) judicial authority of the United States.

The Article III district court was defined in a 1938 Supreme Court decision styled Mookini v. United States, as follows:

The term "District Courts of the United States," as used in the rules, without an addition expressing a wider connotation, has its historic significance. It describes the constitutional courts created under article 3 of the Constitution. Courts of the Territories are legislative courts, properly speaking, and are not District Courts of the United States. We have often held that vesting a territorial court with jurisdiction similar to that vested in the District Courts of the United States does not make it a "District Court of the United States."11

The legitimate territorial court, designated as a United States District Court, was defined by the Supreme Court in Balzac v. Porto Rico in 1922:

The United States District Court is not a true United States court established under article 3 of the Constitution to administer the judicial powers of the United States therein conveyed. It is created in virtue of the sovereign congressional faculty, granted under article 4, § 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of true United States courts, in offering an opportunity to nonresidents of resorting to a tribunal not subject to local influence, does not change its character as a mere territorial court.12

One of the better listings of "courts of the United States" is the definition of courts which the Administrative Office of United States Courts has jurisdiction over, at 28 U.S.C. § 610. However, this list is dated. Since the definition was last amended, the United States District Court for the Canal Zone has been abolished, and the territorial court (United States District Court) for the Northern Mariana Islands has been added:

As used in this chapter the word "courts" includes the courts of appeals and district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, the United States Court of Federal Claims, and the Court of International Trade.

Validity of this definition of courts of the United States is reinforced by regulations generated for the General Accounting Office in the definition of "agency" at 4 CFR § 91.2:

§ 91.2 Definitions.

(a) Agency means —

(1) An executive agency as defined in 5 U.S.C. 105, including the General Accounting Office,

(2) The Government Printing Office,

(3) The Library of Congress,

(4) The Office of the Architect of the Capitol,

(5) The Botanic Garden, and

(6) The Administrative Office of the United States Courts, the Federal Judicial Center, and any of the courts set forth in section 610 of title 28, U.S. Code. Section 610 defines "courts" to include the courts of appeals and district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, the United States Claims Court and the Court of International Trade.

The General Accounting Office is general agent of the Treasury of the United States, responsible for settling all claims of or against the United States, so reiteration of 28 U.S.C. § 610 as authoritative with respect to identifying lawful courts of the United States conclusively demonstrates that United States District Courts situated in the Union of several States are not lawful courts of the United States. Implications of the GAO adopting this definition as identifying lawful courts of the United States are more than interesting and at some point in the future should be useful in securing redress of grievance in administrative and judicial forums.

A somewhat different but maybe clearer approach is used in the definition at 28 U.S.C. § 1869(f). This subsection "defines" what courts of the United States are authorized by

statute to convene grand and petit (trial) juries, and effectively bridges civil and criminal so far as lawful courts of the United States are concerned:

(f) "district court of the United States", "district court", and "court" shall mean any district court established by chapter 5 of this title, and any court which is created by Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title...

Criminal jurisdiction of the United States, found at 18 U.S.C. § 3231, is vested in "district courts of the United States", not "United States District Courts", and the same is true in civil forums in title 28 of the United States Code.13 Sections of the Code which reflect jurisdiction similar to district courts of the United States in territorial courts are found for the most part in title 48, Territories and Insular Possessions. The Virgin Islands territorial court is unique in that it is vested with concurrent maritime jurisdiction at 18 U.S.C. § 3241. However, the "territorial" jurisdiction can and does extend only to the insular possession itself, along with territorial waters. The Canal Zone territorial court had concurrent admiralty and maritime jurisdiction until it was abolished, and prior to admission as States of the Union, concurrent maritime jurisdiction was vested in various of the territorial courts.

No Article III or Article I jurisdiction of the United States is vested in United States District Courts situated in the Union of several States party to the Constitution. They are not courts created by Congress — they are private courts created by a judicial consortium. These folks garbed in black were for the most part appointed under authority of Article III § 1 of the Constitution to preside in lawful courts of the United States, but without constitutional or statutory authority, elected to set up a system of private courts which operates under the territorial illusion.

Whenever territories of the United States were admitted to the Union, Article I territorial courts were replaced by Article III district courts of the United States. Prior to the 1920s, however, there doesn't seem to have been any real distinction in text so far as the district court of the United States v. the United States District Court is concerned. The problem was resolved via Supreme Court definition in Balzac v. Porto Rico (1922). However, in at least some legislation, court nomenclature was avoided, as was the case in the judiciary act of March 3, 1911 in statutory language governing transition from territorial to Article III courts. The fact that the territorial courts were abolished with admittance of a territory to the Union of several States is verified in §§ 62-64 of the act of March 3, 1911, ch. 231, 36 Stat. 1104:

Sec. 61. When any Territory is admitted as a State, and a district court is established therein, all the records of the proceedings in the several cases pending in the highest court of said Territory at the time of such admission, and all records of the proceedings in the several cases in which judgments or decrees had been rendered in said territorial court before that time, and from which writs of error could have been sued out or appeals could have been taken, or from which writs of error had been sued out or appeals had been taken and prosecuted to the Supreme Court or to the circuit court of appeals, shall be transferred to and deposited in the district court for the said States.

Sec. 63. It shall be the duty of the district judge, in the case provided in the preceding section, to demand of the clerk, or other person having possession or custody of the records therein mentioned, the delivery thereof, to be deposited in said district court; and in case of the refusal of such clerk or person to comply with such demand, the said

district judge shall compel the delivery of such records by attachment or otherwise, according to law.

Sect. 64. When any Territory is admitted as a State, and a district court is established therein, the said district court shall take cognizance of all cases which were pending and undetermined in the trial courts of such Territory, from the judgments or decrees to be rendered in which writs of error could have been sued out or appeals taken to the supreme Court or to the circuit court of appeals, and shall proceed to hear and determine the same.

The sections above were derived from §§ 567-568 of the Revised Statutes of 1878, page 97, so they weren't new in 1911 or even 1878, but originated a considerable time before. They clearly demonstrate that the nature of courts of the United States is an either/or proposition: Either they must be district courts of the United States, vested with judicial power of the United States via Article III § 1 of the Constitution, or they must be Article I legislative courts, with territorial courts having jurisdiction limited to territory subject to Congress' Article IV § 3.2 legislative authority. There is no statutory provision or justification for maintaining territorial courts once a territory of the United States is admitted to the Union of several States. When a territory is admitted to the Union, only Article III courts of the United States may make determinations that deprive the sovereign people of life, liberty, or property. The Fifth Article of Amendment, as well as the "arising under" clause at Article III § 2.1 of the Constitution, cannot be abridged by Congress or the judicial branch of government.

The means by which Congress vests territorial courts with judicial authority similar to that of Article III district courts of the United States is demonstrated in language employed to establish jurisdiction of the District Court of Guam, at 48 U.S.C. § 1424:

Sec. 1424. District Court of Guam; local courts; jurisdiction

(a) District Court of Guam; local courts

The judicial authority of Guam shall be vested in a court of record established by Congress, designated the "District Court of Guam," and such local court or courts as may have been or shall hereafter be established by the laws of Guam in conformity with section 1424-1 of this title.

(b) Jurisdiction

The District Court of Guam shall have the jurisdiction of a district court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28, and that of a bankruptcy court of the United States.

(c) Original jurisdiction

In addition to the jurisdiction described in subsection (b) of this section, the District Court of Guam shall have original jurisdiction in all other causes in Guam, jurisdiction over which is not then vested by the legislature in another court or other courts established by it. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court established by the laws of Guam for the purpose of determining the requirements of indictment by grand jury or trial by jury.

Restating the obvious, United States District Courts situated in the several States are not Article III district courts of the United States, and they are not Article I territorial courts, known as United States District Courts. It is technically accurate to say that they are "outlaw" courts —courts which do not exist by laws of the United States promulgated by Con-

gress, and do not exercise judicial authority of the United States.14

This is not conjecture. Judges and the court clerk in the Eastern District of Kentucky have effectively confessed this conclusion in administrative and judicial forums. Law of the United States speaks clearly to the matter. Litigation is already filed in the Eastern District of Kentucky with the mandate to convene the Article III district court of the United States, with an affidavit of bias and prejudice that disqualifies all judges appointed to the district, the object being to force the Chief Judge of the 6th Circuit to convene the constitutionally-authorized and statutorily-established district court. The contention is supported by a letter from the office of the General Counsel for the Administrative Office of United States Courts.15 As of this writing, these initiatives are stalemated by inaction, but there has been no rebuttal to the obvious conclusions and legitimacy of the initiatives.

The character of the United States District Court is addressed several times in the body of this discourse, so we will rest the subject for now.

Next, it is particularly important to understand that the "United States of America" responsible for civil and criminal initiatives in United States District Courts is a government foreign to the United States that has no constitutional or statutory authority in the several States party to the Constitution. Where United States government has two capacities or characters, there are two distinct political alliances or coalitions named the "United States of America".

The original United States of America, spelled with capital first letters, was comprised of the thirteen original States joined to fight the American war of independence, and was formally established in Article I of the Articles of Confederation (1777). This same "United States of America" appears in the Preamble of the Constitution of the United States: "We the People of the United States..," established the Constitution, "... for the United States of America." The United States of America also has a function in Article II of the Constitution: By way of electoral college, the President is elected President of the United States of America, then at his inauguration is sworn in by oath as President of the United States.

The relationship of the Union of several States party to the Constitution, designated as the United States of America in the Articles of Confederation, is somewhat on the order of member nations who participate in the United Nations. By way of charter, signatory nations established the United Nations, but the charter does not vest unilateral authority in any of the participating nations; all actions of the United Nations, regardless of what nations participate, are engaged in the name and by authority of the United Nations. The Constitution of the United States enumerates certain powers vested in the governmental entity known and designated as the United States, not the United States of America.

Analogously, suppose several people decide to undertake an enterprise of some sort. Maybe they want to build cars. They might create a corporation, which is a legal fiction, and might name the legal fiction "agent" responsible for carrying out the enterprise the Ford Motor Corporation, General Motors, Chrysler, or anything else. Likewise, delegates of the United States of America compact could have named the confederation agent anything they wanted to. Rather than the "United States", they might have named the designated governmental entity the "Confederated Authority". The sense of what they did is related in the first three articles of the Articles of Confederation:

Article I. The Stile of this confederacy shall be "The United States of America".

Article II. Each state retains its sovereignty, freedom, and independence, and every

Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

Article III. The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their Liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

Essentially the same limitations on United States authority is articulated in the Ninth and Tenth Amendments to the Constitution:

Ninth Article of Amendment

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Tenth Article of Amendment

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Obviously, even the original United States of America had no significant constitutionally delegated powers — the Constitution was "for" the United States of America, its primary function was to delegate authority to the United States as the general government agent, and therefore, the Constitution is the Constitution of the United States. The original draft of the Constitution made at the Constitutional Convention actually didn't have a title. The title was added for classification and other purposes, but the intent is clear even without the title. But substituting the "United States of America" for the "United States" as the principal of interest in Federal civil and criminal initiatives is only the beginning of fraud.

The United States of America currently responsible for Federal civil and criminal initiatives is not the original. It is a political coalition, compact or alliance of insular possessions of the United States subject to sovereignty of the United States via Congress' plenary power (near-absolute) in territory belonging to the United States under authority of Article IV, Sec. 3, cl. 2 of the Constitution.16 By way of various sections of the United States Code, delegations of authority, treaties, etc., we know the substitute "United States of America" is territorial, it is a jurisdiction foreign to the United States, and it is defined as an agency of the United States (see notes following 18 U.S.C. § 1001, and 18 U.S.C. § 6, 1994 edition, derived from 18 U.S.C. § 80, 1940 edition). The entity is very probably classified or designated as a municipal corporation.

By putting the "United States" and the "United States of America" in the same statute or regulation, the two entities are distinguished as being unique and separate — the "this is not that" test applies. The following is reproduction of 18 U.S.C. § 80, 1940 ed., and it does precisely what is required to distinguish the "United States" from the "United States of America":

§ 80. (Criminal Code, section 35(A).) Presenting false claims.

Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States

of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry in any matter within the jurisdiction of any department or agency of the United States or any corporation in which the United States of America is a stockholder, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. [Underscore added]

The general fraud is made possible by the likeness of the two names where the second is a familiar name. For example, years ago when I lived in Oklahoma City, I was listed in the telephone directory as "Dan L. Meador," and there was also a Daniel Meador who was listed as "Dan'l Meador." I occasionally received mail and telephone calls intended for Daniel, and he sometimes received mail and telephone calls intended for me.

One of the better high school athletes I've ever known was a sophomore when I was a senior. But I could never get his name straight — he was either George Dennis or Dennis George. I still have to occasionally look in my old high school year book to recall which way it is. I can envision that if I didn't have the year book, I might find it difficult to locate him as most metropolitan telephone directories list people named George Dennis and Dennis George. If I wanted to locate the old high school friend, I would simply have to call those listed under both names until finding the right one. This is more or less the process required to determine the constitutionally-authorized governmental entity and the lawful Article III district court of the United States. Each has been isolated through the process of elimination.

Then there is a similar kind of confusion: When I was attending a university with over ten thousand students, I kept running into what I thought was the same guy. It was disconcerting because he would show up in places that didn't make sense. I might see him somewhere, then see him a second place and wonder how he managed to get from one place to the other ahead of me. Confusion was resolved when I saw look-alikes together — they were identical twins.

The examples aren't precisely the same as the "United States" not being the "United States of America," but knowing there are two entities identified as the "United States of America" helps, then seeing the "United States" and the "United States of America" clearly set out in the same section of the United States Code or the Code of Federal Regulations provides the means for conceptual clarification and orientation. We can demonstrate that, "The United States is not the United States of America," then demonstrate by way of the Constitution and laws of the United States that the United States, not the United States of America, has lawful authority in the Union of several States party to the Constitution.

Ironically, proper principal and judicial authority are tied together in the Internal Revenue Code at 26 U.S.C. § 7402. This section, in subsection (a), is specific with respect to the "United States" being the lawful principal of interest, and the "district court of the United States" being the court where government may secure lawful remedies:

(a) To issue orders, process, and judgments

The district courts of the United States at the instance of the United States shall have such jurisdiction to make and issue in civil actions, writs and orders of injunction, and of

ne exeat republica, orders appointing receivers, and such other orders and processes, and to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such laws. [underscore added]

The "United States" must bring the action — "... at the instance of the United States..." — in a "district court of the United States," in all "civil actions."

Making a non-criminal claim or complaint in a court is a "civil action," and it may be in two different forms. It may proceed "in the course of the common law," or "in the course of the civil law." The terminology of law is at best confusing for most people even where there is no deceptive intent, so there is an inherent problem of explaining the meaning of words and phrases even for many people who practice law. The problem is even worse where there is intentional deception, which is the case for the Internal Revenue Code and other titles of the United States Code.

The Internal Revenue Code is full of deception. One example relates to forfeitures. In the Internal Revenue Code, forfeitures are designated as "in rem" actions, and are to be executed in United States District Courts, this stipulation at 26 U.S.C. § 7323:

Sec. 7323. Judicial action to enforce forfeiture.

(a) Nature and venue.

The proceedings to enforce such forfeitures shall be in the nature of a proceeding in rem in the United States District Court for the district where such seizure is made.

The United States District Court is a territorial court, and the in rem action is an admiralty/maritime action, which proceeds "in the course of the civil law," contrary to due process in the course of the common law secured by the Fifth, Sixth, and Seventh Articles of Amendment, and presumed by the "arising under" clause at Article III § 2.1 of the Constitution. Again it is necessary to understand terminology and implications of terminology to grasp meaning of 26 U.S.C. § 7323. However, with what has already been addressed, we can conclude that the current Internal Revenue Code does not authorize seizures and forfeitures in the Union of several States party to the Constitution — these portions of the Internal Revenue Code are limited to territorial and maritime jurisdiction of the United States. Thus, "venue" for forfeitures, venue meaning territorial jurisdiction, is determined in the context of § 7323 by designation of the territorial court rather than the Article III district court of the United States as the court with authority to effect seizures and forfeitures. Only three legitimate territorial courts remain, designated via 1994 legislation at 18 U.S.C. § 23 — United States District Courts of Guam, the Northern Mariana Islands, and the Virgin Islands. Therefore, per 26 U.S.C. § 7323, all suits for seizure and forfeiture must be in one of the three remaining territorial courts, not in district courts of the United States situated in the Union of several States party to the Constitution.

That the "United States", not the "United States of America", is the constitutionally and statutorily-authorized principal of interest, and must therefore be the prosecuting party via lawful courts of the United States, is reasonably easy to track through statutory authority relating to revenue laws. By going to the 1934 edition of the United States Code, authority of the "United States" is verified for actions to enforce forfeitures, etc. Authority is found at 28 U.S.C. § 732, 1934 ed., as follows:

§ 732. Suits for duties, imposts, taxes, penalties, or forfeitures. All suits for the recovery

of any duties, imposts, or taxes, or for the enforcement of any penalty or forfeiture provided by any act respecting imposts or tonnage, or the registering and recording or enrolling and licensing of vessels, or the internal revenue, or direct taxes, and all suits arising under the postal laws, shall be brought in the name of the United States. [underscore added]

The origin of 28 U.S.C. § 732, 1934 ed., is § 919 of the Revised Statutes of 1878, the beginning-place for the United States Code. By going to the Revised Statutes of 1878, we can compare the section with that in the Code to see proper authority:

Sec. 919. All suits for the recovery of any duties, imposts, or taxes, or for the enforcement of any penalty or forfeiture provided by any act respecting imports or tonnage, or the registering and recording or enrolling and licensing of vessels, or the internal revenue, or direct taxes, and all suits arising under the postal laws, shall be brought in the name of the United States. [underscore added]

The 1934 U.S.C. section duplicates § 919 of the Revised Statutes of 1878, the Revised Statutes of 1878 providing the point of demarcation for current law of the United States. Annotation to § 919 of the Revised Statutes of 1878 cite original legislation as follows: Act of 4 Aug., 1790, c. 35, s. 67, v. 1, p. 176. 31 Dec. 1792, c. 1, s. 29, v. 1, p. 298. 18 Feb., 1793, c. 8. s. 35, v. 1, p. 317. 2 Mar., 1799, c. 22, s. 89, v. 1, pp. 695, 696. 13 July, 1866, c. 184, s. 9, v. 14, pp. 111, 145. 8 June, 1872, c. 335, s. 303, v. 17, p. 323.

Additionally, the Supreme Court of the United States has determined authority of the "United States" to sue in the absence of statutory authority specifying the principal. In the absence of statutory authority, or statutes to the contrary, the Attorney General may initiate suit in the name and by authority of the United States (United States v. San Jacinto Tin Co., 125 U.S. 273 (1888); United States v. Beebe, 127 U.S. 338 (1888); United States v. Bell Telephone Co., 128 U.S. 315 (1888)).

Finally, the matter is ultimately put to rest by the original judiciary act of September 24, 1789. The first section which speaks to authority of the United States is § 9, 1 Stat. 76:

Sec. 9. And be it further enacted, That the district courts (c) shall have, exclusively of the courts of the several States, cognizance of all crimes and offences that shall be cognizable under the authority of the United States...

Actions of a civil nature are addressed in 11, 1 Stat. 78:

Sec. 11. And be it further enacted, That the circuit courts shall have original cognizance, concurrent with the courts of the several States, of all suits of a civil nature at common law or in equity, where the matter in dispute exceeds, exclusive of costs, the sum or value of five hundred dollars, and the United States are plaintiffs...

Duties of the United States Marshal clarify authority of the United States, with no other authority listed, at § 27, 1 Stat. 87:

Sec. 27. And be it further enacted, That a marshal shall be appointed in and for each district for the term of four years ... (b) And to execute throughout the district, all lawful precepts directed to him, and issued under the authority of the United States...

To close the loop, this same basic charge of responsibility for the U.S. Marshal is found in the 1994 edition of the United States Code at § 566(c):

(c) Except as otherwise provided by law or Rule of Procedure, the United States Marshals Service shall execute all lawful writs, process, and orders issued under the authority of the United States...

Nowhere is there constitutional or statutory authority for the "United States of America" to serve as principal of interest in civil or criminal causes in the Union of several States party to the Constitution. This might be a minor thing of no consequence if the "United States of America" wasn't a distinct, separate geographical and political entity foreign to the "United States", but the evidence clearly shows that the United States and the United States of America are distinct and different with distinct and separate geographical authority. There is no other "law or Rule of Procedure" authorizing the United States of America as prosecuting principal in civil or criminal judicial forums; all writs, process, and orders of courts of the United States which the U.S. Marshal's Service may execute must be "issued under the authority of the United States."

In sum, virtually all Federal civil and criminal initiatives against individuals and non-governmental enterprise are filed in private United States District Courts situated in the Union of several States party to the Constitution in the name and by authority of the United States of America, a government foreign to the United States that has no constitutional or statutory authority in the several States party to the Constitution. These are the "least common denominators" for Americans assailed in civil and criminal forums since approximately 1948.

The broader scheme will make more sense after reading the next two sections. Motives behind the Cooperative Federalism scheme are simple — wealth and power.

The Codes Are Unraveled

Part of the problem for researchers and people who have relied on the law fraternity for assistance has been not understanding the United States Code, the Code of Federal Regulations, and corresponding Codes for the several States. As a consequence, otherwise excellent researchers, and attorneys who are loyal Americans interested in correcting the ravenous prosecution and seizure frenzy, have been led like a dog chasing his tail. However, keys to unraveling the United States Code and the Code of Federal Regulations, as well as State codes, have been unearthed.

At the onset, an important fact needs to be established: The United States Code and State codes are not laws of the United States and the several States. The codes are merely classification systems; in and of itself, the United States Code does not vest a franchise of authority in any officer, department or agency of the United States, and does not create a liability or benefit for anybody. The same is true for State codes. Laws of the United States are published annually in the Statutes at Large; laws enacted by State legislatures are published in State session laws following each session of the legislature. So far as the United States Code is concerned, even those titles enacted as so-called "positive law" are merely "legal evidence" of laws of the United States; titles which have not been enacted as positive law are "prima facie" (by appearance) the law.17

The United States Code was first published in 1926. It has never been more than a classification system for laws of the United States. The first edition was based on the Revised Statutes of 1878, and session laws, published in the Statutes at Large, through 1926. Each year there is a supplement to the Code with laws passed in the immediate previous session, then every six or so years, a new edition incorporates original legislation, amendments, and repeals enacted since the previous edition was published. Supplements are then added each year until the next new edition is published. The 1994 edition, with supple-

ments, is the sixth and current edition.

The purpose of the United States Code, and its nature, were stated clearly in the Preface to the 1926 edition, the first paragraph reproduced here:

This Code is the official restatement in convenient form of the general and permanent laws of the United States in force December 7, 1925, now scattered in 25 volumes — i.e., the Revised Statutes of 1878, and volumes 20 through 43, inclusive, of the Statutes at Large. No new law is enacted and no law repealed. It is prima facie the law...

The fact that the United States Code isn't law is demonstrated by § 33 of the Act of June 25, 1948, c. 646, 62 Stat. 991, the act which purportedly enacted title 28, Judiciary and Judicial Procedure, into positive law:

No inference of a legislative construction is to be drawn by reason of the chapter in Title 28, Judiciary and Judicial Procedure, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catchlines used in such title.

What is legislative construction? Legislative construction determines application, in some way identifies source of authority, etc. Any given section in the United States Code is separated from its title, enacting clause, and other essentials necessary to determine application. It is evidence of law, but it is not the law.

The first three editions of the Code were reasonably straightforward (1926, 1934 & 1940), then in 1948 and after, an amalgamation process began which converges and distorts sections from various titles in the 1940 edition. The current 28 U.S.C. § 132, addressed in an earlier footnote, merges sections of the 1940 edition from titles 28, Judiciary and Judicial Procedure, and 48, Territories and Insular Possessions, the latter relating principally to the territorial court of Hawaii prior to Hawaii being admitted as a State of the Union. The section is an amalgamation of two or more sections from previous editions of the United States Code and Acts of Congress, with the consequence being that people cannot simply read it and determine what portion has what application. The underlying laws were not amended, merely the amalgamated section in the Code. Therefore, sections of the Code are not law of the United States, as such. They are merely evidence that a law or several laws of that nature exist somewhere in the Statutes at Large.

Fortunately, there is a reasonably simple way to unravel the United States Code to demonstrate proper application of any given section: Following each section, there are Historical and Statutory Notes. These notes provide the history, and cites in the Statutes at Large where the original act and major amendments are located. By going to the original act citation in the Statutes at Large, the beginning cite can be secured, then that cite and/or the popular name of any given piece of legislation can be found in the Distribution Tables in the United States Code. The Distribution Tables provide a section-by-section breakdown of the bill published in the Statutes at Large, directing to where pieces of the legislation are located in the United States Code.

For example, taxing authority for Subtitles A and C and administrative and judicial sections in Subtitle F of Title 26, the Internal Revenue Code, are major sources of grief for people across the country. Subtitle A contains particulars relating to what most Americans know as the "income tax" —technically, the "normal tax," enacted as a privilege tax against officers, employees and agents of United States Government in 1919 or before. Subtitle C includes statutory authority for Social Security tax, other social welfare taxes, and authority for payroll deductions. Today elements of the normal tax and Social Secu-

rity-related legislation are scattered through titles 5, 26, 31, 42, and other titles. Generally speaking, judicial procedure for collection of these taxes, when delinquent, is in Title 5 of the United States Code, not Subtitle F of the Internal Revenue Code (see particularly 5 U.S.C. §§ 5512 & 5520). The General Accounting Office, as general agent for the Treasury of the United States, is responsible for initiation of judicial proceedings, not the Internal Revenue Service.18 This is but one example of the mire created by the entire United States Code, not just the Internal Revenue Code, and has been disabling for those who make sincere efforts to unravel laws of the United States. When proper use of the Code is understood, it is a handy tool, but it is not law of the United States — it is merely evidence of law. Because of classification, merging and editing distortions, it is no longer even reliable evidence except for those willing to wade through volumes of legalese.

The Code of Federal Regulations has a corresponding finding aid called the Parallel Table of Authorities and Rules, authorized by the Federal Register Act at 44 U.S.C. § 1510.19 The Parallel Table of Authorities and Rules, along with other finding aids, is located in the Index volume of the Code of Federal Regulations. The Code of Federal Regulations bears approximately the relationship to the Federal Register as the United States Code does to the Statutes at Large, with finding aids in the Index providing the bridge between statutes and regulations (see 44 U.S.C. § 1507).

The Parallel Table of Authorities and Rules lists sections and titles of the United States Code in numerical order, with sections that have published regulations listed having general application or application limited to the regulation listed, and those not listed having limited application to (1) government of the United States (see 5 U.S.C. §§ 301 & 302), (2) territories and insular possessions of the United States, and/or (3) admiralty and maritime jurisdiction of the United States.

In this scheme, any statute promulgated by Congress must be wed to an administrative regulation before it has the force and effect of law.20 Via a statute promulgated by Congress in compliance with Article I § 7 of the Constitution, Congress effectively says, "This is the law," then the President or an executive officer by regulation says, "This is the application and the way the statute will be enforced." One is incomplete without the other; until a legitimate statute and general application regulation are joined, there can be no general application save as is applicable to the three limited and special jurisdictions listed above.

Another secret —the Director of the Administrative Office of Courts of the United States is responsible for publishing regulations governing conduct and operation of court officers and personnel such as clerks, probation officers and the like (see 28 U.S.C. §§ 603(a)(1) & 603(f)). It does not appear that these regulations are published in the Code of Federal Regulations, but must be secured from that office. They are required to be published in the Federal Register before having force and effect. Additionally, the Director produces a manual for conduct of United States magistrate judges. This is important to know as the courts themselves, through clerks as well as judges and other officers attached to the courts, are keepers at the gate. Having regulations in hand is vital to forcing compliance or filing complaints for removal and/or prosecution.21

Nearly all States joined to the Cooperative Federalism scheme have adopted the Uniform Administrative Procedures Act which sets out regulatory requirements similar to those in the Federal Administrative Procedures Act and the Federal Register Act. Com-

parable finding aids and indexes should be in place. State law for the several States respectively is in State session laws, not codes such as the Oklahoma Statutes Annotated, and administrative agencies are required to promulgate regulations along the same order as Federal regulations. Some States such as Kansas have compiled and organized administratively-promulgated regulations in publications similar to the Code of Federal Regulations, but others such as Oklahoma haven't. Without implementing regulations, delegations of authority, etc., both State and Federal authorities proceed without force and effect of law.

Basic & Essential Authorities

While every effort is being made to write this material so virtually any literate person can understand it, it is necessarily steeped in legal cites, court decisions, etc., which can make comprehension difficult for those not familiar with principles of law and the strange language sometimes described as legalese. This is probably the most difficult section as it deals with five essential authorities, then works through the relationship of the authorities by using examples. In order to provide orientation, the authorities are listed immediately below, ahead of the actual section narrative. Analysis follows the itemized list.

1. The Constitution of the United States must establish authority for all statutory enactments of Congress applicable to the Union of several States party to the Constitution, and the American people at large. Further, Congress must be legislating for the Union of several States rather than exclusively for territory of the United States before even enumerated powers are applicable in or to the several States. Therefore, determination of what capacity Congress is operating in —the root source of constitutional authority — is an indispensable element of constitutional authority. 2. Congress must create departments, including courts inferior to the Supreme Court, and empower the various administrative departments and courts, by way of statutes enacted in compliance with Article I § 7 of the Constitution. The following authorities establish and preserve this requirement: Art. I § 8.18 & Article III § 1 of the Constitution; 4 U.S.C. § 72. 3. Where Congress by statute vests authority in the President, the President may delegate authority to executive officers or departments by way of Executive Order published in the Federal Register. This requirement is at 3 U.S.C. § 301. 4. Where Congress by statute directly vests authority in an executive officer or administrative department, or authority vested in the President is delegated by Executive Order, the executive officer or department head may redelegate authority by delegation order. The requirement is in the Federal Register Act, at 44 U.S.C. § 1505(a). This requirement also applies to legislative and judicial officers and departments, but not necessarily in the framework of the Federal Register Act. 5. Any given statute that prescribes a departmental function, creates an obligation, or prescribes a penalty, must be implemented by regulations published in the Federal Register. The requirement is in the Federal Register Act, at 44 U.S.C. § 1505(a).

A physical scientist will say, "Nothing comes from nothing." The same principle applies to governments, particularly governments established by constitutions where departments and officers have specifically enumerated powers. This is absolutely the case when it comes to governments of the United States and the Union of several States party to the Constitution. Each has its constitutionally-enumerated powers, and can do nothing which is not delegated by applicable constitutions. Sovereignty, as such, is vested and

resides in the people; the people divest themselves of whatever responsibilities they want governments to tend to by way of powers enumerated in applicable constitutions.

Through the Bill of Rights of the Constitution of the United States (first Ten Articles of Amendment), and bills of rights in constitutions of the several States party to the Constitution, the American people specifically retained certain rights which were articulated in the Declaration of Independence (1776), and in the English-American heritage as early as the Magna Charta (1215). The rights to life, liberty and pursuit of happiness, articulated in the Declaration of Independence, restated as rights to life, liberty and property in the Fifth Article of Amendment, were and are essential to freedom and prosperity. These unalienable and therefore inseparable rights, which are what American founders described as self-evident truth, are to freedom and prosperity as legs on a three-legged milking stool. To remove any of the three legs effectively destroys the stool.

The Tenth Article of Amendment is particularly important as it prohibits the government of the United States from exercising power which is not specifically delegated to it by and enumerated in the Constitution. When properly understood, the Tenth Article of Amendment works somewhat like a volley ball or tennis net, separating State and Federal authority. This frames what is called the Separation of Powers Doctrine — State and Federal governments are postured as the antipodes or opposite ends of authority, with one operating inside the scope of its enumerated powers while the other operates in the scope of its enumerated and limited powers. Additionally, the Separation of Powers Doctrine distinguishes responsibility of the three branches of government — executive and judicial branches do not have constitutional legislative authority, legislative and administrative branches do not exercise judicial authority, and legislative and judicial branches do not administer laws of the United States. Each branch has its role, and with few limited crossover areas that are gray in nature, one does not perform the functions of the other.

This principle is expressly articulated in Springer et al v. Government of the Philippines Islands, 48 S.Ct. 480, 277 U.S. 189, 72 L.Ed. 485 (1928), at 201 & 202:

It may be stated then, as a general rule inherent in the American constitutional system, that, unless otherwise expressly provided or incidental to the powers conferred, the Legislature cannot exercise either executive or judicial power; the executive cannot exercise either legislative or judicial power; the judiciary cannot exercise either executive or legislative power. The existence in the various Constitutions of occasional provisions expressly giving to one of the departments powers which by their nature otherwise would fall within the general scope of the authority of another department emphasizes, rather than casts doubt upon, the generally inviolate character of this basic rule.

Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are executive functions. It is unnecessary to enlarge further upon the general subject, since it has so recently received the full consideration of this court. Myers v. United States, 272 U.S. 52, 47 S.Ct. 21, 71 L.Ed. 160.

Original authority is vested in the three branches of Federal government respectively by the Constitution of the United States. One cannot exercise constitutionally enumerated powers of another; none can exercise power not delegated by the Constitution. The Constitution simultaneously serves as an empowering instrument while articulating limitation in the "Thou shalt not..," language of the Tenth Article of Amendment.

The first essential authority where matters at hand are concerned, beyond the constitutionally-enumerated power, is statutory authority. The Constitution itself merely established the branches and authorizes authority each may exercise. At Article I § 8.18, the Constitution specifies that, "[The Congress shall have Power] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof." The means for enacting laws is prescribed in Article I § 7.

Through this lawmaking authority, Congress may activate and enact all, some or none of any given power enumerated in the Constitution. This includes creating offices and/or agencies. For example, the Attorney General has been an officer in the administration almost from the time Congress first convened under the Constitution in 1789 (Act of Sept. 24, 1789). The Department of Justice wasn't legislated into existence until 1870 (Act of June 22, 1870). Since then, Congress has vested certain responsibilities in the Attorney General and/or the Department of Justice, or sometimes in departments Congress has created in the Department of Justice. By way of delegation of authority by the Attorney General, these various divisions of the Department of Justice, and departments or agencies attached to the Department of Justice, are charged with carrying out responsibilities prescribed by statute.

One of the more important statutory restrictions which secures and reinforces Congress' authority is at 4 U.S.C. §§ 71 & 72. The first of these sections establishes territory within the current borders of the District of Columbia as the seat of government for the United States; the second prohibits any government department from operating outside the District of Columbia save as Congress authorizes by statute:

Sec. 72. Public offices; at seat of Government

All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.

In this context, we see what should be lawful constraint on the Federal Bureau of Investigation by examining origins and statutory authority of the FBI: Read notes following 28 U.S.C. § 531 to find that Congress didn't create the Federal Bureau of Investigation. The FBI simply appeared in the Department of Justice — it is an administratively-created entity, so cannot exceed authority originally vested in the Attorney General or the Department of Justice. Statutory authority vested in the FBI and the Attorney General is found at 28 U.S.C. § 535:

The Attorney General and the Federal Bureau of Investigation may investigate any violation of title 18 involving Government officers and employees...

Administrative creation of the FBI is confirmed in The United States Government Manual, 1996/97 edition, page 349:

"The Federal Bureau of Investigation was established in 1908 by the Attorney General, who directed that Department of Justice investigations be handled by its own staff..."

What authority does the FBI have to investigate and otherwise bother people in the several States other than Government officers and employees? De facto authority — "I can, therefore I will." The FBI has no statutory authority to disturb anyone in the Union of several States other than government officers and employees. Therefore, 4 U.S.C. § 72, in addition to constitutional limitations, constrains FBI investigations in the Union of several States to subject matter prescribed by statute, that being 28 U.S.C. § 535, cited above.

The Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms are successors of the Bureau of Internal Revenue, Puerto Rico, the BIR to IRS name change being effected by T.D.O. 150-29, in 1953; BATF was split from IRS in 1972 by administrative order, not by Congress' statutory authority. No new governmental entity was created. These agencies, which are not part of the Department of the Treasury of the United States or the Treasury of the United States, have legitimate authority only in insular possessions and territorial waters belonging to the United States, all of which are subject to Congress' plenary power under Article IV § 3.2 of the Constitution. Neither has statutory authority beyond borders of the District of Columbia save in insular possessions of the United States, per 4 U.S.C. § 72.

The same statute condemns United States District Courts situated in the Union of several States, and the "United States of America" — civil and criminal process in the Union of several States must issue in Article III district courts of the United States in the name and by authority of the United States (judicial authority over criminal actions in district courts of the United States at 18 U.S.C. § 3231 & civil actions relating to tax cases at 26 U.S.C. § 7402, cited elsewhere).

Another example of necessary statutory authority is rules of procedure for judicial process. By way of judiciary acts of 1789 and 1792, district courts of the United States were established as common law courts. Cases and controversies "arising under" the Constitution and laws of the United States (Article III § 2.1 "arising under" clause), and treaties enacted by authority of the United States, are to proceed in the course of the common law as established in England at the time the Constitution was implemented.22

Current Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, Federal Rules of Appellate Procedure, Supreme Court Rules, and Federal Rules of Evidence are promulgated under statutory authority evidenced at 28 U.S.C. §§ 2071-2074, particularly § 2072, and are applicable only in legitimate United States district courts, not in district courts of the United States.

This is one of the major deception moves made in 1948. In the 1920s, then again in the 1930s, Congress authorized the Supreme Court to prescribe rules for equity, admiralty and maritime cases for Article III district courts of the United States. In fact, the 1934 edition of the United States Code appears confused on the matter as "one form of action" was already in statutory language, but rules of evidence and other statutory matters relating to the course of the common law had not been repealed. Revision and historical notes, which have been the responsibility of West Publishing from the beginning, articulated the confusion — probably the editor was being dumb like a fox. Most consternation appeared to be straightened out by the 1940 edition, then in 1948, statutory authority for the rules, and the rules themselves, were amended to apply in United States district courts rather than district courts of the United States.23 Equity, admiralty, and maritime cases proceed in the course of the civil law; cases at law proceed in the course of the common law. There is no presumption in the common law. When some matter of authority or liability is challenged, proof must be provided in an open hearing and be established by documentary evidence and testimony.

The course of the civil law operates to a great extent on presumption, even though there is no Federal Rules of Evidence rule for presumption relating to criminal cases (see notes for Rule 301, presumption in civil matters, Federal Rules of Evidence). In the course

of the civil law, which presumes, "The will of the prince is law," presumption, including undisclosed presumption, may lie against the defendant, leaving the defendant to prove innocence rather than requiring the plaintiff to prove guilt or liability. Each of the several States party to the Constitution save Louisiana is a common law State; as a longtime French colony prior to United States acquisition in 1803, Louisiana was permitted to retain the Napoleonic Code, which was civil law. Read Downes v. Bidwell, 1901, cited elsewhere, for the history of how the Ordinance of 1787 for government of the Northwest Territory was extended to each new territory, assuring due process in the course of the common law, prior to the cession treaty ceding the Philippines, Puerto Rico, etc., following the Spanish-American War. The Ordinance of 1787 is part of the organic law of the United States, published in the first volume of the current United States Code.

Difference between due process in the course of the common law and due process in the course of the civil law is significant, and so long as the Fifth, Sixth, and Seventh Articles of Amendment are in place, Congress has no authority to bastardize the clear and straightforward rules of common law process. There is, in fact, no statutory authority for merger of rules governing process for actions at law with actions in equity, admiralty, and maritime jurisdiction.

Next is the statute being executed and prosecuted: What is the source of authority and application for any given statute, which may be "evidenced" by a section of the United States Code?

Questions framed in Wayman v. Southard, cited earlier, a decision written by former Chief Justice John Marshall, provide an important lesson. The first question was basically, "What does the Constitution authorize Congress to do?" relative to courts, process, etc. The second was, "What has Congress done?"

Too many involved in litigation jump the gun by arguing what the Constitution authorizes Congress to do, without stepping back to examine and question what Congress has done. Since the 1920s, what the Constitution authorizes Congress to do under Article I enumerated powers has been all but irrelevant as nearly all statutory enactments since have issued under Article IV authority in territory of the United States — precious few laws of the United States now apply to the Union of several States party to the Constitution. Arguing about authority under the commerce clause and other broadly construed powers is a waste of time as Congress abandoned regulating commerce among the several States in favor of regulating commerce among territories and insular possessions of the United States, and foreign commerce, long ago. As another example, by way of the revenue act of November 23, 1921, Congress repealed virtually all excise taxes and other taxes applicable under Article I and Sixteenth Article of Amendment authority, the "normal" tax against officers and employees of the government of the United States being one of the few exceptions. The normal tax, patterned on the tax against Federal employees in 1862, was resurrected in 1919 or some time before. When the various taxes were reenacted at a later date, they were applicable in the District of Columbia and territories and insular possessions of the United States, or as might apply in admiralty and maritime jurisdiction of the United States.

It appears that governments of the several States are working through corporate structures, and via municipal corporations, are "acting" as though each is an instrumentality or political subdivision of the United States. This fraud is perpetrated by State legisla-

tures adopting uniform acts, nearly all of which presume the adopting States are instrumentalities of the United States. However, at Article IV § 3.1, the Constitution condemns this:

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State...

Once Congress admits a new State to the Union, nobody, including Congress, has authority to create another State within jurisdiction of the existing State. Therefore, the so-called corporate State, which functions as a Federal State, exists and operates as a completely de facto entity. It has no lawful existence or authority. Governors and legislatures of the several States certainly don't have authority to create new states.

One of the grand paradoxes set up by this move to Article IV plenary power, as opposed to Article I delegated powers, is framed in the statute which authorizes the Supreme Court to promulgate rules of procedure, at 28 U.S.C. § 2072(b):

(b) Such rules shall not abridge, enlarge, or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

The Separation of Powers Doctrine comes into focus here: Congress does not have authority to delegate legislative power to administrative and judicial branches of government. Yet with 28 U.S.C. § 2072(b), Congress gave the Supreme Court repeal power, which is legislative. Rules promulgated by the Supreme Court repeal any conflicting statute. Justices Black and Douglas argued this well into the 1960s, but to no avail.

There is, however, a reasonably simple explanation for how Congress could delegate legislative authority: Congress vested repeal power in the Supreme Court under the Article IV territorial clause, not as pertains to the Union of several States party to the Constitution. This is demonstrated in Rule 54(c) application of terms, Federal Rules of Criminal Procedure:

"Act of Congress" includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession.

"State" includes District of Columbia, Puerto Rico, territory and insular possession.

Applications above use territorial possessions of the United States as examples. None of the examples represent the Union of several States. A statute must be interpreted within the framework of its language, and if all examples are of one class, application cannot go beyond the class. Similarly, if the wording on a can of flea spray lists only breeds of dogs, it is designed for dogs, but not cats. If the intent of Congress is manifest in the plain wording of a statute, as evidenced at 28 U.S.C. § 2072(b), the enactment must be taken at face value. Consequently, what the Supreme Court sets out in rules is the determining factor as statutes contrary to the rules are repealed by authority of 28 U.S.C. § 2072(b). Since Congress may not delegate legislative authority in the framework of general powers enumerated in Article I of the Constitution, authority for rules promulgated by the Supreme Court to repeal any and all conflicting law must be exercise of Congress' Article IV legislative power over territory and other possessions of the United States. This is the only way to reconcile implications of 28 U.S.C. § 2072(b) with the Separation of Powers Doctrine. In fact, by referencing the Parallel Table of Authorities and Rules, which is addressed elsewhere in this document, it is found that none of the sections pertaining to rules of the courts are listed (28 U.S.C. §§ 2071-2074), thereby indicating that there are no general

application regulations save as might be promulgated by the Director of the Administrative Office of United States Courts or the Chief Justice of the Supreme Court in his administrative capacity.

The acid test is to examine application. To do that, consider corresponding authority for the Attorney General to imprison people, set out at 18 U.S.C. § 4001(a):

§ 4001. Limitation on detention; control of prisons

(a) No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.

Since the Supreme Court has stipulated that an Act of Congress is locally applicable in the District of Columbia, Puerto Rico, or in a territory or an insular possession, the term "Act of Congress" used in 18 U.S.C. § 4001 must comply with the application the Supreme Court prescribed in Rule 54(c), F.R.Crim.P., or it is repealed by 28 U.S.C. § 2072(b). Therefore, current authority for the Attorney General to imprison people is applicable only in the District of Columbia, Puerto Rico, a territory or insular possession of the United States. Since the Separation of Powers Doctrine prohibits one branch of government from performing constitutionally delegated powers of another, thereby prohibiting the Supreme Court from enacting or repealing legislation, the repeal power of rules authorized at 28 U.S.C. § 2072(b) must be delegated to the Supreme Court under Congress' Article IV plenary power in territory and insular possessions of the United States. Application of the term "Act of Congress" in Rule 54(c), F.R.Crim.P., and use of the term in 18 U.S.C. § 4001, are consistent with this conclusion. The further inescapable conclusion is that title 18 of the United States Code, the criminal code, is evidence of law applicable only in territories and possessions of the United States. For all practical purposes other than as sections of the Code might apply to officers and employees of the United States, and admiralty and maritime jurisdiction of the United States, the Code is municipal law in territories and insular possessions of the United States.

The next element of authority is delegation of authority: By statute, Congress vests basic authority over any given title and various administrative functions in the President, an executive officer such as the Attorney General or the Secretary of the Treasury, or in departments of the United States government.

Where authority is vested in the President, he may redelegate it to executive officers, departments, etc., via Executive Order, the E.O. required to be published in the Federal Register in compliance with the Federal Register Act (44 U.S.C. §§ 1501 et seq., particularly § 1505(a)). Specific statutory authority for Presidential Executive Orders is at 3 U.S.C. § 301. Where authority is delegated from the President to an executive officer, or is vested in an executive officer by statute, the executive officer must redelegate authority down line by way of delegation orders published in the Federal Register in compliance with the Federal Register Act (44 U.S.C. § 1505(a)). The Federal Register serves as public notice.

It is convenient that nearly all Attorney General delegation orders are reproduced in Part 0 of title 28 of the Code of Federal Regulations (28 CFR, Part 0). Reading this rather lengthy part provides an excellent outline of authority vested in the Department of Justice, the office of the United States Attorney, the Federal Bureau of Prisons, etc. However, the regulations can be misleading without knowing other particulars so they shouldn't be taken at what appears to be face value without considerable study. For example, the Fed-

eral Bureau of Prisons is a corporation, it is no more a government department than the Federal Reserve System is, and no more a part of the Department of Justice than the Internal Revenue Service is part of the Department of the Treasury of the United States.

On the other hand, there are certain striking disclosures in Attorney General delegations of authority that don't require special knowledge, nor the aptitude of a rocket scientist. For example, the Attorney General delegation order at 28 CFR, Part 0.55 vests powers in the Assistant Attorney General over the Criminal Division of the Department of Justice relative to those accused or convicted of crimes against the United States. Then the delegation order reproduced at 28 CFR, Part 0.64-1 authorizes the Assistant Attorney General over the Criminal Division of the Department of Justice to act as ''Central Authority'' or ''Competent Authority'' under treaties authorized by Public Law 95-144 on behalf of the United States of America. Further authority relating to the United States of America is delegated at 28 CFR, Part 0.64-2.

The picture takes even better shape via the Director of the Bureau of Prisons: The delegation order at 28 CFR, Part 0.96 authorizes the Director to take custody of people accused or convicted of offenses against the United States; the delegation order at 28 CFR, Part 0.96b authorizes the Director to take custody of offenders from the United States of America under provisions specified in a treaty authorized by Public Law 95-144. The Director acts as agent of the United States in this transfer process. Under terms of Public Law 95-144, whoever is transferred from United States of America to United States custody must sign consent prior to transfer (see 18 U.S.C. § 4100(b)). Obviously, whenever the Assistant Attorney General over the Criminal Division of the Department of Justice, the Director of the Bureau of Prisons, or their respective delegates, including United States Attorneys, wardens, U.S. Marshals, etc., act against someone prosecuted in the name and by authority of the ''United States of America'' beyond provisions of Pub.L. 95-144 where there is no treaty in place, the victim has not been properly extradited from his or her home asylum State, and has not signed consent to be transferred from United States of America to United States custody, those responsible are respectively acting as de facto agents of a government foreign to the United States. Since they frequently proceed under actual or threatened force of arms, they engage in treason, as defined in Article III § 3 of the Constitution.

Since they are reasonably short, the first paragraph of the Director of the Bureau of prisons delegation of authority at 28 CFR, Part 0.96, and the entire delegation of authority at 28 CFR, Part 0.96b are reproduced below:

§ 0.96 Delegations

The Director of the Bureau of Prisons is authorized to exercise or perform any of the authority, functions, or duties conferred or imposed upon the Attorney General by any law relating to the commitment, control, or treatment of persons (including insane prisoners and juvenile delinquents) charged with or convicted of offenses against the United States...

§ 0.96b Exchange of prisoners.

The Director of the Bureau of Prisons and officers of the Bureau of Prisons designated by him are authorized to receive custody of offenders and to transfer offenders to and from the United States of America under a treaty as referred to in Public Law 95-144; to make arrangements with the States and to receive offenders from the States for transfer to

a foreign country; to act as an agent of the United States to receive the delivery from a foreign government of any person being transferred to the United States under such a treaty; to render to foreign countries and to receive from them certifications and reports required under a treaty; and to receive custody and carry out the sentence of imprisonment of such a transferred offender as required by that statute and any such treaty.

The term "State" used in 28 CFR, Part 0.96b must conform to application of the term "State" prescribed in Rule 54(c), F.R.Crim.P., per authority of 28 U.S.C. § 2072(b), so these regulations are applicable to the Federal States (Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa), and are exclusive of the Union of several States party to the Constitution.

Use of the two terms "United States" and "United States of America" in the same regulation clearly distinguishes one from the other. This new "United States of America" is territorial; as agent of the United States, the Director is authorized to transfer offenders to and from the United States of America to United States custody; United States of America jurisdiction is foreign to United States jurisdiction; and this United States of America evidently has authority to effect treaties under Public Law 95-144, so is political in nature even though it probably operates as a municipal corporation. It is a power foreign to the Constitution of the United States and the Union of several States party to the Constitution that has no constitutional or statutory standing or authority whatever in the several States. If there was no other evidence, Attorney General delegation orders at 28 CFR, Parts 0.55, 0.64-1, 0.64-2, 0.96 & 0.96b prove conclusions set out in this paragraph.

The Internal Revenue Code provides another interesting trail to follow: 26 U.S.C. § 7621 authorizes the President to establish revenue districts. Under authority of 3 U.S.C. § 301, the President may redelegate authority vested in him by statute to executive officers via Executive Order, the E.O. required to be published in the Federal Register in compliance with the Federal Register Act (44 U.S.C. § 1505(a)).

The search for the President's redelegation of authority would seem to be a blind trail as 26 U.S.C. § 7621 does not appear in the Parallel Table of Authorities and Rules. Therefore, there is no general application regulation applicable to the Union of several States party to the Constitution and the population at large. However, the President did delegate this responsibility to the Secretary of the Treasury via E.O. #10289. The Executive Order is published in the United States Code following 3 U.S.C. § 301; the applicable portion pertains to customs laws and the Anti-Smuggling Act. By again consulting the Parallel Table of Authorities and Rules in the section on Executive Orders, it is found that application of authority conveyed by E.O. #10289 is 19 CFR, Part 101. There are no regulations pertaining to revenue districts in title 26 of the Code of Federal Regulations, which would apply to income tax, normal tax, Social Security tax, and other taxes in Subtitles A, B & C of the Internal Revenue Code.

The easy way to determine what 19 CFR, Part 101 pertains to is to turn to the "List of CFR Titles, Chapters, Subchapters, and Parts", another convenient finding aid in the Index volume of the Code of Federal Regulations. This compilation immediately follows the Parallel Table of Authorities and Rules.

Not surprisingly, title 19 of the Code of Federal Regulations covers Customs Duties, and Chapter I conveys authority to the "United States Customs Service, Department of the Treasury (Parts 1-199)". 26 CFR, Part 101 is the regulation styled "General provisions."

By going to actual regulations at 19 CFR, Part 101, it is found that this is the authority to establish customs districts, and since the authority is vested in the United States Customs Service rather than the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, etc., one might be curious enough to write to the District Director of the Internal Revenue Service Arkansas-Oklahoma District, or some other district in one of the several States party to the Constitution, to ask what lawful authority he has for maintaining an internal revenue district in the Union of several States. Certainly it isn't 26 U.S.C. § 7621, E.O. #10289, or 19 CFR, Part 101 — that authority is vested exclusively in the United States Customs Service. Unless an IRS or BATF district director, or the Commissioner of Internal Revenue has a rabbit hidden in a hat, these agencies, both successors of the Bureau of Internal Revenue, Puerto Rico, are exercising de facto authority — authority in fact, but not in law. They are in defiance of the prohibition at 4 U.S.C. § 72, as well as sundry constitutional limitations.24

It so happens that there is another authority: In 1956, via Treasury Delegation Order #150-42, the Secretary of the Treasury delegated authority to the Commissioner of Internal Revenue in the areas of Puerto Rico, the Virgin Islands, and the Canal Zone. Simultaneously, authority over these areas was removed from district and regional customs offices in Florida, Georgia, and New York. The delegation order was slightly amended in 1986 by T.D.O. #150-01. The 1986 order eliminated specific mention of the Canal Zone, which is no longer subject to Congress' Article IV § 3.2 legislative jurisdiction, and extended authority of the Commissioner to other areas of the world subject to jurisdiction of the United States. The Northern Mariana Islands have been added to the flock of insular possessions since 1956 (1976), and Guam and American Samoa were brought under internal revenue laws of the United States since 1960. The original Treasury Delegation Order 150-42, published on page 5852 of the 1956 Federal Register, is as follows: Office of the Secretary [Treasury Dept. Order 150-42] Panama Canal Zone, Puerto Rico, and The Virgin Islands Administration of Internal Revenue Laws

By virtue of the authority vested in me as Secretary of the Treasury it is hereby ordered:

1. The Panama Canal Zone is removed from the Internal Revenue District, Jacksonville, and from the Atlanta Region; and Puerto Rico and the Virgin Islands of the United States are removed from the Internal Revenue District, Lower Manhattan, and from the New York City Region.

2. The Commissioner shall, to the extent of authority otherwise vested in him, provide for the administration of the United States internal revenue laws in the Panama Canal Zone, Puerto Rico, and the Virgin Islands.

3. This order shall not be deemed to affect the procedures for administrative appeal existing immediately prior to August 1, 1956.

4. This order shall be effective as of August 1, 1956.

Dated: July 27, 1956.

[Seal] David W. Kendall,

Acting Secretary of the Treasury.

[F.R. Doc. 56-6280; Filed, Aug. 3, 1956; 8:50 a.m.]

Where no other authority exists, no other authority exists. "Nothing comes from nothing," is the governing principle — lawful authority must have lawful origin. T.D.O. 150-42

(1956), as amended by T.D.O. 150-01 (1986), is the end of the road for the Commissioner of Internal Revenue, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco and Firearms. When and if officers or agents in this line act beyond properly delegated authority, their actions are "outlaw" — they act under private and therefore "outlaw" motive.

Finally, any given statute which creates an obligation, prescribes a penalty, etc., must have an implementing regulation. This is required by the Federal Register Act, the applicable section at 44 U.S.C. § 1505(a), the same subsection that establishes the mandate for delegations of authority to be published in the Federal Register:

Sec. 1505. Documents to be published in Federal Register

(a) Proclamations and Executive Orders; Documents Having General Applicability and Legal Effect; Documents Required To Be Published by Congress. There shall be published in the Federal Register —

(1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;

(2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and

(3) documents or classes of documents that may be required so to be published by Act of Congress.

For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.

If "... every document or order which prescribes a penalty has general applicability and legal effect," then every document or order which prescribes a penalty must be published in the Federal Register. The last sentence of § 1505(a) is inclusive: Every document or order which prescribes a penalty means all documents and orders which prescribe penalties must be published in the Federal Register. This is a precaution that avoids imposition of secret or private law, with the precedent dating to God's mandate that Israel post His statutes and regulations at the borders of the covenant nation. Consequently, if an implementing regulation for any given statute is not published in the Federal Register, penalties authorized by the statute may not be imposed. When regulations are published in the Federal Register, penalties may be imposed only as the published regulation specifies. The regulation may not exceed or depart from statutory intent.

With this mandate soundly in place, we can do what amounts to a frontal attack: Title 18 of the Code of Federal Regulations is "Conservation of Power and Water Resources". There is no title in the Code of Federal Regulations for the Criminal Code, which is Title 18 of the United States Code. Each title 18 U.S.C. criminal statute listed in the Parallel Table of Authorities and Rules, and most aren't, relies on regulations promulgated under authority of some other United States Code title.

In order to document regulatory application, alleged offenses of nineteen people incarcerated at the Federal Medical Center-Lexington at Lexington, Kentucky were listed in order by U.S.C. title and section number, then checked against the Parallel Table of Authorities and Rules. Very few of the alleged crimes appear in the Parallel Table of Authorities and Rules, and the few that do have regulations promulgated under titles 19, 26 & 27 of the Code of Federal Regulations. Title 19 is Customs Duties, under jurisdiction of

the United States Customs Service; title 26 is Internal Revenue, in part at least under jurisdiction of the Internal Revenue Service; and title 27 is Alcohol, Tobacco Products and Firearms, under jurisdiction of the Bureau of Alcohol, Tobacco and Firearms. Customs, IRS, and BATF are listed as agencies of the Department of the Treasury. However, by consulting title 31 of the United States Code, it is found that IRS and BATF are not agencies in the Department of the Treasury of the United States. IRS and BATF are successors of the Bureau of Internal Revenue, Puerto Rico; IRS and BATF are agencies of the Department of the Treasury, Puerto Rico, not the Department of the Treasury of the United States. This is generally confirmed by definitions in title 27 of the Code of Federal Regulations, aside from other evidence (see definitions in 27 CFR, Part 250.11). The list of Department of the Treasury of the United States bureaus and agencies is reflected in the table of contents for Chapter 3, Subchapter I of Title 31, U.S.C.:

Subchapter I — Organization
Sec.
301 Department of the Treasury.
302. Treasury of the United States.
303. Bureau of Engraving and Printing.
304. Bureau of the Mint.
305. Federal Financing Bank.
306. Fiscal Service
307. Office of the Comptroller of the Currency.
308. United States Customs Service.
309. Office of Thrift Supervision.

We have already disproved authority of IRS & BATF, by way of the Commissioner of Internal Revenue, for operating revenue districts in the Union of several States under authority of 26 U.S.C. § 7621. Per E.O. # 10289, the Secretary has merely established customs districts applicable to sections in title 19 of the United States Code under authority of the United States Customs Service. Therefore, it isn't necessary to establish concrete proof of IRS and BATF origins — they do not have authority under 26 U.S.C. § 7621 to establish revenue districts in the Union of several States party to the Constitution. Their jurisdiction lies in insular possessions and territorial waters of the United States, the delegation of authority being T.D.O. #150-42 (1956), as amended by T.D.O. #150-01 (1986). Consequently, regulations 26 CFR, Parts 1-799 and 27 CFR, Parts 1-299 are applicable in Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and possibly the District of Columbia. Only the United States Customs Service, under applicable regulations in title 19 of the Code of Federal Regulations, has delegated authority to establish revenue districts in the several States, and even that is dubious as the current United States Customs Service is the product of a Presidential reorganization plan, it is not the original customs service established by Congress.

To further solidify where IRS & BATF have jurisdiction, and to establish where taxes in the Internal Revenue Code apply when there is geographical application, Consider definitions of the terms "United States", "State", and "Citizen" at 26 CFR § 31.3121(e)-1. These definitions apply to Social Security, unemployment tax, etc., with the original enactment in 1935. These definitions are possibly the clearest relating to administration of the Internal Revenue Code, and are particularly important as they demonstrate application to

Alaska and Hawaii before 1960 but not after, and application to Guam and American Samoa after January 1, 1961:

(a) When used in the regulations in this subpart, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Territories of Alaska and Hawaii before their admission as States, and (when used with respect to services performed after 1960) Guam and American Samoa.

(b) When used in the regulations in this subpart, the term "United States", when used in a geographical sense, means the several states (including the Territories of Alaska and Hawaii before their admission as States), the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. When used in the regulations in this subpart with respect to services performed after 1960, the term "United States" also includes Guam and American Samoa when the term is used in a geographical sense. The term "citizen of the United States" includes a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

The transition involving Alaska, Hawaii, Guam and American Samoa in the above regulation definitions is reinforced by the current statutory definitions at 26 U.S.C. § 3121(e):

(e) State, United States, and citizen

For purposes of this chapter —

(1) State

The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(2) United States

The term "United States" when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

An individual who is a citizen of the Commonwealth of Puerto Rico (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

The allegation that most Federal laws presently on the books, other than as pertains to officers and employees of the United States, are applicable only in territory belonging to the United States might seem far-fetched even with proofs already established in this discourse, but consider the definitions at 18 U.S.C. § 921(a)(2), which are applicable for Chapter 44 — Firearms, in the current edition of the United States Code (18 U.S.C. §§ 921-930):

§ 921. Definitions

(a) As used in this chapter —

(2) The term "interstate or foreign commerce" includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone). [Underscore added]

Application of the term "State" above is exclusive of the Union of several States party to the Constitution — all examples of the class are territories and possessions of the United States subject to Congress' Article IV § 3.2 legislative jurisdiction.

This conclusion is supported by the Constitution: The Second Article of Amendment secures the right to own and bear arms for the sovereign people of the several States party to the Constitution. The Fifth Article of Amendment also secures the absolute right of the people to life, liberty, and property except when taken in lawful courts by due process of law in the course of the common law. An absolute right includes the right to defend that which falls within the right — life, liberty and property. And since there is no constitutional amendment which alters or limits the Second and Fifth Articles of Amendment, or lists firearms and related commodities as commodities Congress may regulate, it follows that the bevy of firearms laws in Chapter 44 of title 18 and related laws in title 26 of the United States Code were promulgated under Congress' Article IV § 3.2 plenary power in territory belonging to the United States. The cumulative evidence is sufficient to leave even the worst cynic with nothing more than shifting sand beneath his feet. Congress may tax something, but has no regulatory power unless the power is specifically enumerated.

Definitions above are also governed by long-standing principles of law thoroughly treated in The Federal Zone by Mitch Modeleski. The two principles, articulated long ago in Latin, are, "Inclusio unius est exclusio alterius,", and "Noscitur a sociis." Both are found in Black's Law Dictionary, 6th edition, as follows:

Inclusio unius est exclusio alterius. The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others ... This doctrine decrees that where law expressly describes [a] particular situation to which it shall apply, an irrefutable inference must be drawn that what is omitted or excluded was intended to be omitted or excluded.

Noscitur a sociis. It is known from its associates. The meaning of a word is or may be known from the accompanying words. Under the doctrine of "noscitur a sociis", the meaning of questionable or doubtful words or phrases in a statute may be ascertained by reference to the meaning of other words or phrases associated with it.

The principles are clearly enough stated that they shouldn't need elaboration. Definitions reproduced in this discourse include only territories and insular possessions of the United States, there are no examples of the several States or other verbiage suggesting than any or all of the several States party to the Constitution are included. Therefore, "The certain designation of one [territory] is an absolute exclusion of all others..," and "... the meaning of questionable or doubtful words or phrases in a statute may be ascertained by reference to the meaning of other words or phrases associated with it." Where only the District of Columbia and/or insular possessions of the United States are listed in definitions, application may extend only to possessions of the United States, whether territories incorporated in the constitutional scheme, or insular possessions not incorporated in the constitutional scheme.

The definition of "includes" and "including" at 26 U.S.C. § 7701(c) is clumsy, but basically restates the two Latin principles:

(c) Includes and including.

The terms "includes" and "including" when used in a definition contained in this title [Internal Revenue Code] shall not be deemed to exclude other things otherwise within the meaning of the term defined.

Where definition is by example, the example represents the class. If examples are

Thoroughbred, Morgan, and Clydesdale, the class is horses, exclusive of cats and dogs. To test the principles with relation to statutory authority, we'll examine what Congress has done with relation to Guam and the Virgin Islands, the two controlling statutes, reproduced in relevant part, evidenced at 48 U.S.C. §§ 1421a & 1541:

Sec. 1421a. Unincorporated territory; capital; powers of government; suits against government; type of government; supervision

Guam is declared to be an unincorporated territory of the United States and the capital and seat of government thereof shall be located at the city of Agana, Guam....

Sec. 1541. Organization and status

(a) Composition and territorial designation

The provisions of this chapter and the name "Virgin Islands" as used in this chapter, shall apply to and include the territorial domain, islands, cays, and waters acquired by the United States through cession of the Danish West Indian Islands by the convention between the United States of America and His Magesty the King of Denmark entered into August 4, 1916, and ratified by the Senate on September 7, 1916 (39 Stat. 1706). The Virgin Islands as above described are declared an unincorporated territory of the United States of America.

The District of Columbia, ceded as the seat of government of the United States by Virginia and Maryland, is a unique case as the Constitution of the United States was extended to the territory as the law of the land prior to cession under authority of Article I § 8.17. The Supreme Court has wrestled the matter of how the Constitution applies to the District of Columbia almost since United States acquisition, but has generally followed the rule that once the Constitution has been extended to territory, Congress does not have authority to withdraw it. Where the territory now designated as the District of Columbia was in Virginia and Maryland when they respectively joined the Union under the Constitution, the Constitution theoretically remains in full force and effect. However, when the District municipal corporation was revised following the Civil War, Congress adopted the "Constitution of the United States of America" for the District municipal corporation. This distortion aside, the District of Columbia is actually a class of one as it does not have standing as a State of the Union and it isn't an unincorporated insular possession of the United States, so is usually named in definitions when statutory application is intended to apply within the District.

Suppose we're playing a football game: We're going to dress the Union team in blue, and the unincorporated insular possession team in red. For convenience, we're going to put the District of Columbia team in black and white striped shirts — D.C. will be the referee. The blue team is subject only to general powers of the United States enumerated in the Constitution; the red team is subject to whatever powers Congress wants to exercise; and those in black-and-white striped shirts occupy what must sometimes seem like no-man's-land.

Where a statutory definition employs examples to establish territorial application, designation of players in red shirts is exclusive of those in black-and-white, and those in blue; designation of players in red and black-and-white shirts is exclusive of those in blue. Until a statutory definition explicitly extends to players in blue shirts, being the Union of several States party to the Constitution, the blue team isn't authorized or required to play.

Another politically sensitive subject needs to be addressed. We will come at it through example: The Eighteenth Article of Amendment was ratified in 1919. It implemented national prohibition against intoxicating distilled spirits, with Section 2 establishing concurrent State and Federal enforcement authority. Ratification of the Twenty-first Article of Amendment in 1933 repealed the Eighteenth, thereby ending national prohibition, effecting what is described as State's choice, and terminating concurrent State and Federal enforcement authority — enforcement of State liquor laws lies beyond Federal enforcement authority. This matter was determined by the Supreme Court of the United States in 1935.25

Given this example, it stands to reason that it would require a constitutional amendment to implement national prohibition against any other commodity, whether arms, drugs, or anything else. There is no such amendment authorizing prohibition against arms, drugs or any other commodity. Congress may have Article I and/or Sixteenth Article of Amendment taxing authority relative to these things, but has no authority to institute prohibition or otherwise limit sale and distribution. The Constitution does not confer regulatory authority. Therefore, assumed authority, which amounts to usurpation of power, has simply been used as an excuse and means to field the equivalent of a private army that daily subjects people throughout the nation, and elsewhere around the world, to "nonconstitutional", de facto rule.

Prohibition against alcohol was the greatest boon ever for organized crime. When government imposes prohibition against anything, it creates black market demand. Continuing demand for distilled spirits created the environment for Al Capone and other organized crime figures to put financial legs under national and international operations capable of challenging and doing open battle with government enforcement agencies. Crime organizations and government enforcement agencies grew at unprecedented rates during prohibition years. The same has been true for drug prohibition imposed without constitutional authority: Drug cartels grew up on inflated revenue generated from consumer demand — an estimated 35 million Americans use what are classified as illegal drugs. Presently 60% of the people incarcerated by the Bureau of Prisons were convicted on drug-related charges, and depending on the State, 30 to 40% of the people in State prisons are incarcerated for drug-related offenses. The underground market continues to flourish, drug cartels and independents continue to prosper, and the American people are saddled with outrageous costs for enforcement, prosecution, incarceration, etc., when in reality, there are no Federal or State drug laws applicable in the Union of several States party to the Constitution.

Drug laws are predicated on revenue laws — customs duties. They originated in commercial trade treaties in the early part of the Twentieth Century, particularly after the Boxer Rebellion in 1900. Congress promulgated the China Trade Act in 1904, which regulated trade in opium, cocaine, and citric wines, then step-by-step moved by illusion into efforts to regulate sale and distribution of these commodities. The Labeling Act of 1906 appears to be the first significant domestic step, then the Anti-Narcotic Act of 1914, as amended, was used as the vehicle for perpetrating the illusion of legitimate prohibition against these commodities in the environment of national alcohol prohibition. International agreements which provide the foundation for what appears to be domestic law were effected in 1912. This matter is taken up in a subsequent section.

Leaving the drug subject, we will consult the Parallel Table of Authorities and Rules for regulations pertaining to firearms laws in title 18 of the United States Code (18 U.S.C. §§ 921-930). Of necessity, tracking these authorities gets pretty bogged down in "legalese", so forgive complicated sentence structure and what amount to lists of authorities: Regulations for 18 U.S.C. §§ 921-928 are at 27 CFR, Part 178; an additional regulation for 18 U.S.C. § 921 (definition) is at 27 CFR, Part 72; and an additional regulation for 18 U.S.C. § 926 (rules and regulations), is at 27 CFR, Part 200.

The general application regulation for 18 U.S.C. § 921-930 is 27 CFR, Part 178, located in Subchapter M — Alcohol, Tobacco and Other Excise Taxes, Part 178 pertaining to commerce in firearms and ammunition. Part 72 is in Subchapter F — Procedures and Practices, and relates to disposition of seized personal property; Part 200 is in Subchapter M — Alcohol, Tobacco and Other Excise Taxes, and pertains to rules of practice in permit proceedings. The definition of "State" at 18 U.S.C. § 921 narrows the geographical application to territories and insular possessions of the United States, as does the lack of IRS/BATF authority to establish revenue districts under authority of 26 U.S.C. § 7621, and the fact that these are excise taxes rather than import duties further verifies that application is in insular possessions of the United States and the District of Columbia, exclusive of the Union of several States party to the Constitution. There is no constitutional provision whatever vesting Congress with authority to regulate production, distribution and sale of firearms and ammunition within the Union of several States party to the Constitution. Under Article I authority, Congress could legitimately impose an excise tax on production and distribution of firearms, but the legislation would have to be for taxing purposes only, not regulation of who can or cannot purchase firearms and ammunition.

At this juncture it would be useful to reiterate that in June 1921, Congress effectively hid the Treasury of the United States by creating the General Accounting Office, under direction of the Comptroller General, then moved Treasury employees to GAO. GAO is an independent agency or department, and serves as general agent of the Treasury of the United States, in charge of determining legitimacy of all claims of or against the United States. A claim against the United States cannot be adjudicated in courts of the United States unless it has first been submitted to, and rejected by GAO. This is the reason so many cases against the Internal Revenue Service, the Commissioner of Internal Revenue, IRS revenue agents, the "United States", etc., are dismissed as stating claims on which relief cannot be granted —whoever initiates these cases doesn't know the claim must first be submitted to GAO.26

The Department of the Treasury is an administrative agency, it is not the Treasury of the United States — the Treasury of the United States, established while Congress was still convened under the Articles of Confederation, predates the Constitution, but was reestablished by Congress under the Constitution via the act of September 2, 1789. It has always been under congressional supervision. The Department of the Treasury of the United States has precious little authority in the Union of several States.

We will conclude this section with rationale behind Cooperative Federalism: Probably the most important legislation in 1913 was the Federal Reserve Act. The nation had two national or central banks in the early going, but the charters of both were terminated and the banks abolished. In 1836, President Andrew Jackson vetoed the bill Congress intended to renew the charter of the second, his rationale simple and to the point: The

Constitution does not delegate authority for Congress to establish a national bank. It still doesn't. Yet in 1913, the Federal Reserve Act created a more ominous entity than a national bank as the Federal Reserve System literally has power to expand or contract the entire economy by regulation of key interest rates and bank reserves. None of these powers are delegated by the Constitution, so creation of the Federal Reserve System had to be under Congress' Article IV § 3.2 plenary power in territory belonging to the United States. With and subsequent to the Federal Reserve Act came fraudulent, nonconstitutional credit and monetary systems.

Once fraudulent credit and monetary systems, and economic controls were in place, the balance of Federal government had to be moved under Congress' Article IV § 3.2 legislative authority in territory belonging to the United States. In this section, we have demonstrated the move by examining five essential authorities. Laws of the United States evidenced in the United States Code nearly all apply (1) to officers and employees of the United States, (2) to territories and insular possessions of the United States, and/or (3) to maritime and admiralty jurisdiction of the United States, and do not have general application in the Union of several States party to the Constitution.

Breakdown of Drug & Internal Revenue Laws

Proof of the pudding is in the tasting. If historical evidence and authorities addressed thus far hold true, it should be reasonably easy to demonstrate that Federal drug laws, which account for about 60% of the cases prosecuted in United States District Courts, and internal revenue laws categorized in the Internal Revenue Code, are applicable only in the three jurisdictions excluded from the Federal Register Act: Application of these two categories of laws should apply solely to (1) officers and employees of United States government and governments of political subdivisions of the United States, (2) in United States admiralty and maritime jurisdiction, and (3) in territories and insular possessions of the United States.

I. Application of Federal Drug Control Laws

Probably the place to begin on the subject of controlled substances is with Congressional findings and declarations relating to controlled substances, framed in Public Law 91-513, title II, Sec. 101, Oct. 27, 1970, 84 Stat. 1242, the statement classified at 21 U.S.C. § 801:

Sec. 801. Congressional findings and declarations: controlled substances

The Congress makes the following findings and declarations:

(1) Many of the drugs included within this subchapter have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.

(2) The illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.

(3) A major portion of the traffic in controlled substances flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because —

(A) after manufacture, many controlled substances are transported in interstate com-

merce,

(B) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution, and

(C) controlled substances possessed commonly flow through interstate commerce immediately prior to such possession.

(4) Local distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances.

(5) Controlled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured and distributed interstate. Thus, it is not feasible to distinguish, in terms of controls, between controlled substances manufactured and distributed interstate and controlled substances manufactured and distributed intrastate.

(6) Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic.

(7) The United States is a party to the Single Convention on Narcotic Drugs, 1961, and other international conventions designed to establish effective control over international and domestic traffic in controlled substances.

I have never advocated use of nonprescription drugs, and through the years have seen negative and disastrous effects from abuse of both prescription and street drugs. On the other hand, many of my contemporaries, particularly in the university setting, used various so-called illegal substances in the way social drinkers drink, with most leading productive lives in school and work environments. Casual, social, or recreational use, whatever the descriptive terminology should be, did not seem to adversely affect whatever pursuits they were involved in. With my commitment to ministry, I find it impossible to tell people that use of drugs or alcohol to the point judgment is impaired is proper. But I also recognize that freedom of choice is indispensable to liberty. God put the tree of knowledge in the Garden of Eden, then told Adam and Eve not to eat the fruit, but he didn't put a fence around it. They were free to exercise choice — they could be obedient or disobedient. That's one context the entire faith community must consider when tackling the problem of drug laws. From experience and observation, I'm increasingly convinced that government cannot function as moral custodian. This is particularly the case when politicians responsible for legislation, and those responsible for enforcement, are morally derelict to begin with. In light of what has already been addressed, it's difficult to claim that any branch of government is morally motivated. At the same time there is increasing prosecution of so-called vice, there is increasing regulation of family an community in all other aspects of life, with the church being one of the targets of ever-tighter regulation.

The second context is this: Sometimes a cure is worse than the disease. Surgery can be successful, but the patient still die. That is certainly the case for Federal and State drug laws. If production and distribution of what are now controlled substances were regulated in somewhat the fashion State governments regulate production and sale of alcoholic beverages, freedom of choice for adults would be preserved, the cost of enforcement, prosecution, and correction would be greatly reduced, and inflated street prices would be undermined sufficiently that coffers of organized crime wouldn't be nearly as enriched.

The third context is most important: If and when government exceeds constitutionally delegated powers, those responsible, regardless of how righteous-sounding the cause, are engaged in rebellion against the sovereign people, disdaining the constitutional republic. The first transgression is worst as if successful, it invariably leads to further encroachment and eventually to institutionalized tyranny. That's precisely what we're addressing — government out of control. So far as the essence of authority and the necessity of preserving constitutional integrity are concerned, former Chief Justice John Marshall addressed the matter as eloquently as anyone in Marbury v. Madison (1803), 5 U.S. 137, 2 L.Ed. 60:

The question, whether an act, repugnant to the constitution, can become the law of the land, is a question deeply interesting to the United States; but, happily, not of an intricacy proportioned to its interest. It seems only necessary to recognize certain principles, supposed to have been long and well established, to decide it.

That the people have an original right to establish, for their future government, such principles as, in their opinion, shall most conduce to their happiness, is the basis on which the whole American fabric has been erected. The exercise of this original right is a very great exertion; nor can it nor ought it to be frequently repeated. The principles, therefore, so established are deemed fundamental. And as the authority, from which they proceed, is supreme, and can seldom act, they are designed to be permanent.

This original and supreme will organizes the government, and assigns to different departments their respective powers. It may either stop here; or establish certain limits not to be transcended by those departments.

The government of the United States is of the latter description. The powers of the legislature are defined and limited; and those limits may not be mistaken or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing; if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed are of equal obligation. It is a proposition too plain to be contested, that the constitution controls any legislative act repugnant to it; or, that the legislature may alter the constitution by an ordinary act.

Between these alternatives there is no middle ground. The constitution is either a superior, paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and like other acts, is alterable when the legislature shall please to alter it.

If the former part of the alternative be true, then a legislative act contrary to the constitution is not law; if the latter part be true, then written constitutions are absurd attempts, on the part of the people, to limit a power in its own nature illimitable.

Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation, and consequently the theory of every such government must be, that an act of the legislature repugnant to the constitution is void.

On the surface, Congressional findings and declarations in 21 U.S.C. § 801 are high-sounding and even have a righteous ring. However, the first defect on the face of the statement is in subsection (7): "The United States is a party to the Single Convention on

Narcotic Drugs, 1961, and other international conventions designed to establish effective control over international and domestic traffic in controlled substances.''

Condemnation doesn't have to be elaborate. ''So what?'' is sufficient. If the Constitution doesn't delegate authority via an enumerated power, it makes no difference how many conventions, treaties, accords or whatever Congress and/or the President enters, application cannot be to the Union of several States. Congress and the Administration cannot use treaties and other forms of foreign agreements to enlarge constitutionally delegated powers. Unless or until there is a constitutional amendment delegating regulatory authority pertaining to some commodity, Federal regulatory authority doesn't exist in the Union of several States party to the Constitution. Per Chief Justice Marshall, the enactment is not and cannot be law of the land as there is no constitutional authority to make such a law. The enactment might be popular in some quarters, but that is precisely what the Constitution is designed to guard against — imposition of the politically popular and expedient that encroaches on unalienable rights of those who don't happen to be in vogue and in tune with bandwagon politics. The enactment, if not within the scope of powers enumerated in the Constitution can have no lawful effect.

The next flaw in the proclamation is the string of presumptions concerning interstate and foreign commerce. They wipe out State and local sovereignty, setting the stage for what amount to bills of attainder, prohibited at Article I § 9.3 for government of the United States, and Article I § 10.1 for governments of the several States. These kinds of presumption, prosecuted in the course of the civil law, constituted major grievances American founders addressed to King George III and the British Parliament in the Declaration of Rights and the Declaration of Independence — they were plagued by vice-admiralty courts in which presumption, contrary to the course of the common law, played a significant role. ''The will of the prince is law,'' — in this case, Congress —, is foreign and repugnant to eight centuries of English-American juris prudence. In street language, whoever manufactured the Congressional findings and declarations statement in § 801 was a sick puppy — the rationalization is thin veneer for institutionalizing tyranny which by way of what amounts to a private army daily plunders and imprisons sovereign American people.

However, as is the case with other elements of law we've treated, we can examine application of this general statement to the Union of several States via the Parallel Table of Authorities and Rules, and demonstrate that the law does not and never has applied to the several States party to the Constitution. The only regulation listed for 21 U.S.C. § 801 is 21 CFR § 5, which relates to delegation of authority and organization of the Food and Drug Administration, Department of Human Services. The underlying authority, Pub. L. 91-513, has an additional regulation at 42 CFR § 2a, which prescribes regulations for protection of the identity of research subjects. This regulation is the only one for surviving portions of the Comprehensive Drug Abuse Prevention and Control Act of 1970. However, as other core legislation relating to other matters, Pub. L. 91-513 has been amended several times, so all the amendments should be examined in light of implementing regulations. The list follows:

The Narcotic Addict Treatment Act of 1974 (Pub. L. 93-281);

The Psychotropic Substances Act of 1978 (Pub. L. 95-633);

The Dangerous Drug Division Control Act of 1984 (Pub. L. 98-473)

The Federal Drug Law Enforcement Agent Protection Act of 1986 (Pub. L. 99-570);

The Mail Order Drug Paraphernalia Control Act of 1986 (Pub. L. 99-570), repealed in 1990 by a similar act;

There were several additions and amendments to Pub. L. 99-570, enacted in 1986 under the following short titles:

Controlled Substances Import and Export Penalties Enhancement Act of 1986, Controlled Substance Analogue Enforcement Act of 1986, the Juvenile Drug Trafficking Act of 1986; the Drug Possession Penalty Act of 1986; the Narcotics Penalties and Enforcement Act of 1986; and the Anti-Drug Abuse Act of 1986;

The Asset Forfeiture Amendments Act of 1988; the Chemical Diversion and Trafficking Act of 1988; and the Anti-Drug Abuse Amendments Act of 1988, all under auspices of Pub. L. 100-690;

The Anabolic Steroids Control Act of 1990 (Pub. L. 101-647);

The Domestic Chemical Diversion Control Act of 1993 (Pub. L. 103-200); and

The Drug Free Truck Stop Act, 1994 (Pub. L. 103-322).

Since most of the public laws pertaining to drugs enacted since 1970 are cited in notes following 21 U.S.C. § 801, they can be listed in chronological order with authorities attributed to them in the Parallel Table of Authorities and Rules. The Public Law is listed on the left, with applicable regulations on the right. Where more than one regulation is listed for any given title of the Code of Federal Regulations, the double "§§" indicates that more than one regulation is accounted for:

Pub. L. 91-513 42 CFR § 2a (Title 42 — Public Health; Chapter I —Public Health Service, Department of Health and Human Services (Parts 1-199); Subchapter A — General Provisions; § 2a, Protection of identity — research subjects).

Pub. L. 93-281 No implementing regulations.

Pub. L. 95-473 No implementing regulations.

Pub. L. 99-570 5 CFR §§ 294 (Title 5 — Administrative Personnel; Chapter I — Office of Personnel Management (Parts 1-1199); Subchapter B — Civil Service Regulations; § 294, Availability of official information.), 2502 (Chapter XV — Office of Administration, Executive Office of the President (Parts 2500-2599); § 2502, Availability of records.);

19 CFR § 103 (Title 19 — Customs Duties; Chapter I — United States Customs Service, Department of the Treasury (Parts 1-199); § 103, Availability of information.);

22 CFR §§ 303 (Title 22 — Foreign Relations; Chapter III — Peace Corps (Parts 300-399); § 303, Inspection and copying of records: rules for compliance with Freedom of Information Act); 503 (Chapter V —United States Information Agency (Parts 500-599); § 503, Availability of records.);

24 CFR §§ 15 (Title 24 — Housing and Urban Development; Subtitle A —Office of the Secretary, Department of Housing and Urban Development (Parts 0-99); § 15, Testimony, production and disclosure of material or information by HUD employees.); 2002 (Subtitle B — Regulations Relating to Housing and Urban Development; Chapter XII — Office of Inspector General, Department of Housing and Urban Development (Parts 2000-2099); § 2002, Availability of information to the public);

28 CFR § 32 (Title 28 — Judicial Administration; Chapter I —Department of Justice (Parts 0-199); § 32, Public safety officers' death and disability benefits.);

29 CFR § 1610 (Title 29 — Labor; Subtitle B — Regulations Relating to Labor; Chapter XIV — Equal Employment Opportunity Commission (Parts 1600-1699); § 1610, Availabil-

ity of records.);

32 CFR § 285 (Title 32 — National Defense; Chapter I — Office of the Secretary of Defense (Parts 1-399); Subchapter N — Freedom of Information Act Program; § 285, DoD Freedom of Information Act program.);

45 CFR § 2005 (Title 45 — Public Welfare; Subtitle B — Regulations Relating to Public Welfare; should be in Chapter XIX or XX, the chapters and § 2005 are not listed);

49 CFR §§ 350 (Title 49 — Transportation; Chapter III — Federal Highway Administration, Department of the Transportation (Parts 300-399); § 350, Commercial motor carrier safety assistance program); 701 (Chapter VII — National Railroad Passenger Safety Board (Parts 700-799); § 701, Freedom of Information Act regulations).

Pub. L. 100-690 7 CFR § 3017 (Title 7 — Agriculture; Subtitle B —Regulations of the Department of Agriculture; Chapter XXX — Office of Finance and Management, Department of Agriculture (Parts 3000-3099); § 3017, Governmentwide Department [probably should be "debarment"] and suspension (non-procurement) and governmentwide requirements for drug-free workplace (grants).);

10 CFR § 1036 (Title 10 — Energy; Chapter X — Department of Energy (General Provisions) (Parts 1000-1099); § 1036, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants));

12 CFR § 516 (Title 12 — Banks and Banking; Chapter V — Office of Thrift Supervision, Department of the Treasury (Parts 500-599); § 516, Application processing guidelines and procedures.);

13 CFR § 145 (Title 13 — Business Credit and Assistance; Chapter I —Small Business Administration (Parts 1-199); § 145, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).);

14 CFR § 1265 (Title 14 — Aeronautics and Space; Chapter V — National Aeronautics and Space Administration (Parts 1200-1299); § 1265, Government wide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).);

21 CFR § 1316 (Title 21 — Food and Drugs; Chapter II — Drug Enforcement Administration, Department of Justice (Parts 1300-1399); § 1316, Administrative functions, practices, and procedures.);

22 CFR §§ 51 (Title 22 — Foreign Relations; Chapter I — Department of State (Parts 1-199); Subchapter F — Nationality and Passports; § 51, Passports.); 137 (Subchapter N — Miscellaneous; § 137, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace.); 310 (Chapter III — Peace Corps (Parts 300-399); § 310, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).); 1006 (Chapter X — Inter-American Foundation (Parts 1000-1099); § 1006, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).);

28 CFR §§ 32 (Title 28 — Judicial Administration; Chapter I —Department of Justice (Parts 0-199); § 32 Public safety officers' death and disability benefits.); 67 (§ 67, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).);

29 CFR §§ 98 (Title 20 — Labor; Subtitle A — Office of the Secretary of Labor (Parts 0-

99); § 98, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).); 1471 (Subtitle B — Regulations Relating to Labor; Chapter XII — Federal Mediation and Conciliation Service (Parts 1400-1499); § 1471, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).);

31 CFR § 19 (Title 31 — Money and Finance: Treasury; Subtitle A —Office of the Secretary of the Treasury (Parts 0-50); § 19, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).);

33 CFR § 1 (Title 33 — Navigation and Navigable Waters; Chapter I —Coast Guard, Department of Transportation (Parts 1-199); Subchapter A — General; § 1, General provisions.);

36 CFR § 1209 (Title 36 — Parks, Forests, and Public Property; Chapter XI — National Archives and Records Administration (Parts 1200-1299); Subchapter A — General Rules; § 1209, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).);

44 CFR § 17 (Title 44 — Federal Emergency Management and Assistance; Chapter I — Federal Emergency Management Agency (Parts 0-399); Subchapter A — General; § 17, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).).

Pub. L. 101-647 No implementing regulations.

Pub. L. 103-200 No implementing regulations.

Pub. L. 103-322 No implementing regulations.

It shouldn't be surprising that the Coast Guard, under 33 CFR § 1, promulgated under authority of Pub. L. 100-690, has the only delegated criminal enforcement authority with teeth. The authority relates to admiralty and maritime jurisdiction, and insular possessions of the United States. No enforcement authority under any of the laws above apply in the Union of several States party to the Constitution.

It will be useful to reproduce 21 U.S.C. § 953(a) as this section lists the various "conventions" that allegedly provide authority relating to drug trade and distribution. Title 21 pertains to Food and Drugs, the section is in Chapter 13 — Drug Abuse Prevention and Control, Subchapter II — Import and export:

Sec. 953. Exportation of controlled substances

(a) Narcotic drugs in schedule I, II, III, or IV

It shall be unlawful to export from the United States any narcotic drug in schedule I, II, III, or IV unless —

(1) it is exported to a country which is a party to —

(A) the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925; or

(B) the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946), signed at Paris, November 19, 1948; or

(C) the Single Convention on Narcotic Drugs, 1961, signed at New York, Mach 30, 1961;

(2) such country has instituted and maintains, in conformity with the conventions to

which it is a party, a system for the control of imports of narcotic drugs which the Attorney General deems adequate;

(3) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import, and a permit or license to import such drug has been issued by the country of import;

(4) substantial evidence is furnished to the Attorney General by the exporter that (A) the narcotic drug is to be applied exclusively to medical or scientific uses within the country of import, and (B) there is an actual need for the narcotic drug for medical or scientific uses within such country; and

(5) a permit to export the narcotic drug in each instance has been issued by the Attorney General.

Regulations for 21 U.S.C. § 953 are listed in the Parallel Table of Authorities and Rules as being 19 CFR § 162 and 21 CFR § 1312. They are as follows:

19 CFR § 162 Title 19 — Customs Duties; Chapter I — United States Customs Service, Department of the Treasury (Parts 1-199); § 162, recordkeeping, inspection, search, and seizure.

21 CFR § 1312 Title 21 — Food and Drugs; Chapter II — Drug Enforcement Administration, Department of Justice (Parts 1300-1399); § 1312, Importation and exportation of controlled substances.

The companion import section is at 21 U.S.C. § 952, reproduced below in its entirety:

Sec. 952. Importation of controlled substances

(a) Controlled substances in schedule I or II and narcotic drugs in schedule III, IV, or V; exceptions

It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any controlled substance in schedule I or II of subchapter I of this chapter, or any narcotic drug in schedule III, IV, or V of subchapter I of this chapter, except that —

(1) such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, and

(2) such amounts of any controlled substance in schedule I or II of any narcotic drug in schedule III, IV, or V that the Attorney General finds to be necessary to provide for the medical, scientific, or other legitimate needs of the United States —

(A) during an emergency in which domestic supplies of such substance or drug are found by the Attorney General to be inadequate,

(B) in any case in which the Attorney General finds that competition among domestic manufacturers of the controlled substance is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 823 of this title, or

(C) in any case in which the Attorney General finds that such controlled substance is in limited quantities exclusively for scientific, analytical, or research uses, may be so imported under such regulations as the Attorney General shall prescribe. No crude opium may be so imported for the purpose of manufacturing heroin or smoking opium.

(b) Nonnarcotic controlled substances in schedule III, IV, or V

It shall be unlawful to import into the customs territory of the United States from any

place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any nonnarcotic controlled substance in schedule III, IV, or V, unless such nonnarcotic controlled substance —

(1) is imported for medical, scientific, or other legitimate uses, and

(2) is imported pursuant to such notification, or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such import permit, notification, or declaration, as the Attorney General may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule IV or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.

(c) Coca leaves

In addition to the amount of coca leaves authorized to be imported into the United States under subsection (a) of this section, the Attorney General may permit the importation of additional amounts of coca leaves. All cocaine and ecgonine (and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made) contained in such additional amounts of coca leaves imported under this subsection shall be destroyed under the supervision of an authorized representative of the Attorney General.

Regulations for 21 U.S.C. § 952 are listed as 19 CFR § 162, and 21 CFR §§ 1311 & 1312. Two of the three are set out above, so only 21 CFR § 1311 needs to be accounted for:

21 CFR § 1311 Title 21 — Food and Drugs; Chapter II — Drug Enforcement Administration, Department of Justice (Parts 1300-1399); § 1311, Registration of importers and exporters of controlled substances.

We will continue with statutory and regulatory examination, but at this juncture, certain things are already obvious. Through analysis of the three Title 21 United States Code sections, and the various public laws listed above, none of the licensing, regulation, and civil and criminal enforcement authority pertaining to controlled substances reaches into the Union of several States save as they might pertain to someone involved in importing or exporting the substances. Next, regulations vest authority in the Coast Guard, which in times of war is under authority of the Navy and in peacetime is under authority of the Department of Transportation, in the United States Customs Service, which is a bureau in the Department of Treasury, and the Drug Enforcement Administration, which is a department or bureau in the Department of Justice. Licensing and regulation of import and export is left to discretion of the Attorney General. Yet statutory authority of the Attorney General for enforcement at 28 U.S.C. § 535, treated earlier, is limited to investigation of officers and employees of United States government. It is also important that the Drug Enforcement Administration was created by a Presidential reorganization plan, not by Congress, the current Coast Guard is something other than what it originally was, and United States Customs Service is an administrative creation distinct from the original created by Congress. These factors all support the notion that even export and import regulation applies only to the geographical United States subject to Congress' Article IV § 3.2 legislative jurisdiction, not the Union of several States party to the Constitution. In other words, export and import licensing requirements apply only in Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, and conceivably in

the District of Columbia. If this is the case, we should be able to verify application.

Sections relating to drug abuse prevention and control are contained in Chapter 13 of Title 21. What we're looking for is the section with definitions, located at 21 U.S.C. § 802, in Subchapter I — Control and Enforcement, Part A — Introductory Provisions. The critical definitions are at 21 U.S.C. § 802(26) & (28):

(26) The term "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Canal Zone.

(28) The term "United States", when used in a geographical sense, means all places and waters, continental and insular, subject to the jurisdiction of the United States.

Are Oklahoma, Texas, Minnesota, California, and New York, States of the United States? Hardly. They are States of the Union. They are semi-independent States that have legislative autonomy within the framework of constitutional mandates and prohibitions, and as the Constitution vests authority in United States Government. States of the United States, in the geographical sense, include territories and insular possessions subject to Congress' legislative jurisdiction under territorial clause authority. All examples in the list of States of the United States in the definition of "State" at 21 U.S.C. § 802(26) are territories and possessions of the United States. Collectively, these States of the United States constitute the "geographical United States." Where general powers of the United States relating to the Union of several States are concerned, geography, so far as it pertains to land owned and occupied by the United States, is irrelevant. The United States technically has subject matter jurisdiction, not geographical or territorial jurisdiction in the several States. Since there is no constitutionally enumerated power for the United States to regulate drugs and other commodities in the several States, legislation evidenced in Chapter 13 of Title 21 of the United States Code must of necessity be promulgated under Congress' Article IV § 3.2 legislative jurisdiction in the geographical United States. If not, it is patently unconstitutional and of no lawful effect, per Marbury v. Madison.

To continue the analysis: Chapter 13 of Title 21 is divided into two subchapters: Subchapter I — Control and Enforcement, includes §§ 801-904; Subchapter II — Import and Export, includes 951-958. Definitions at 21 § 802(26) & (28), apply to Subchapter I. For obvious reasons, enforcement statutes in Subchapter I are of primary concern as (1) territorial civil and criminal prosecution is the primary concern, and (2) import and export requirements in Subchapter II of necessity rely on territorial application in Subchapter I.

At the onset, it is useful to establish that the Attorney General must promulgate regulations for statutory authority evidenced in Subchapter I. This requirement is set out at 21 U.S.C. §§ 811(a) § 721:

Sec. 811. Authority and criteria for classification of substances

(a) Rules and regulations of Attorney General; hearing

The Attorney General shall apply the provisions of this subchapter to the controlled substances listed in the schedules established by section 812 of this title and to any other drug or other substance added to such schedules under this subchapter...

Sec. 821. Rules and regulations

The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances and to the registration and control of regulated

persons and of regulated transactions.

This laborious task might not make the Attorney General a happy camper, but by employing the Parallel Table of Authorities and Rules and the List of CFR Titles, Chapters, Subchapters, and Parts, we will examine what rules and regulations the Attorney General has promulgated for key sections in Subchapter I. Per 44 U.S.C. § 1505(a), reproduced earlier, each document or order that imposes a penalty is construed as having general application, so all penalty statutes must have properly promulgated regulations. Additionally, regulations for the Federal Register Act require that the Attorney General keep the Parallel Table of Authorities and Rules current (44 U.S.C. § 1510; 1 CFR § 8.5 & elsewhere), so if there is error, fault lies with the Attorney General, nobody else. However, I have every confidence that the current Attorney General and her predecessors have all been virtuous, competent people dedicated to upholding and defending the Constitution and laws of the United States, as respectively required to pledge by oath, so we can rely on truth being revealed via this analysis.

Code sections will be listed on the left, with section nomenclature on the right, then regulatory application will follow in the right column with a paragraph for each CFR title; multiple regulations in any given CFR title will be listed in the same paragraph sequentially. The double "§§" will denote two or more parts in the same CFR title. Because of the way regulations are listed in the Table, precise application in some instances is difficult to determine, so to give the Attorney General every benefit of the doubt, where there is question, a regulation that might apply to any given U.S.C. section will be listed for the questionable section.

21 U.S.C. § 822 Persons required to register.

21 CFR §§ 10 (Title 21 — Food and Drugs; Subchapter A — General; § 10, Administrative practices and procedures.); 12 (§ 12, Formal evidentiary public hearing.); 13 (§ 13, Public hearing before a public board of inquiry.); 15 (§ 15, Public hearing before the Commissioner.); 16 (§ 16, Regulatory hearing before the Food and Drug Administration.); 1301 (Chapter II — Drug Enforcement Administration, Department of Justice (Parts 1300-1399); § 1301, Registration of manufacturers, distributors, and dispensers of controlled substances.); 1307 (§ 1307, Miscellaneous.); 1309 (§ 1309, Registration of manufacturers, distributors, importers and exporters and List I chemicals.); 1316 (§ 1316, Administrative functions, practices, and procedures.).

21 U.S.C. § 823 Registration requirements.

21 CFR §§ 5 (Title 21 — Food and Drugs; Subchapter A — General; § 5, Delegations of authority and organization.); 10 (§ 10, Administrative practices and procedures.); 12 (§ 12, Formal evidentiary public hearing.); 13 (§ 13, Public hearing before a public board of inquiry.); 15 (§ 15, Public hearing before the Commissioner.); 16 (§ 16, Regulatory hearing before the Food and Drug Administration.); 291 (Subchapter C — Drugs: General; § 291, Drugs used for treatment of narcotic addicts.); 1301 (Chapter II — Drug Enforcement Administration, Department of Justice (Parts 1300-1399); § 1301, Registration of manufacturers, distributors, and dispensers of controlled substances.); 1309 (§ 1309, Registration of manufacturers, distributors, importers and exporters and List I chemicals.).

44 U.S.C. § 827 Reports and reports of registrants.

21 CFR §§ 10 (Title 21 — Food and Drugs; Subchapter A — General; § 10, Administrative practices and procedures.); 12 (§ 12, Formal evidentiary public hearing.); 13 (§ 13,

Public hearing before a public board of inquiry.); 15 (§ 15, Public hearing before the Commissioner.); 16 (§ 16, Regulatory hearing before the Food and Drug Administration.); 1304 (Chapter II — Drug Enforcement Administration, Department of Justice (Parts 1300-1399); § 1304, Records and reports of registrants.).

21 U.S.C. § 829 Prescriptions.

21 CFR §§ 10 (Title 21 — Food and Drugs; Subchapter A — General; § 10, Administrative practices and procedures.); 12 (§ 12, Formal evidentiary public hearing.); 13 (§ 13, Public hearing before a public board of inquiry.); 15 (§ 15, Public hearing before the Commissioner.); 16 (§ 16, Regulatory hearing before the Food and Drug Administration.); 1306 (Chapter II — Drug Enforcement Administration, Department of Justice (Parts 1300-1399); § 1306, Prescriptions.).

21 U.S.C. § 841 Prohibited acts A.

No implementing regulations.

21 U.S.C. § 842 Prohibited acts B.

No implementing regulations.

21 U.S.C. § 843 Prohibited acts C.

No implementing regulations.

21 U.S.C. § 844 Penalties for simple possession.

39 CFR § 232 (Title 39 — Postal Service; Chapter I — United States Postal Service (Parts 1-999); Subchapter D — Organization and Administration; § 232, Conduct on postal property.).

21 U.S.C. § 844a Civil penalty for possession of small amounts of certain controlled substances.

28 CFR § 76 (Title 28 — Judicial Administration; Chapter I —Department of Justice (Parts 0-199); § 76, Rules of procedure for assessment of civil penalties for possession of certain controlled substances.).

21 U.S.C. § 846 Attempt and Conspiracy.

No implementing regulations.

21 U.S.C. § 847 Additional penalties.

No implementing regulations.

21 U.S.C. § 848 Continuing criminal enterprise.

28 CFR § 524 (Title 28 — Judicial Administration; Chapter V — Bureau of Prisons, Department of Justice (Parts 500-599); Subchapter B —Inmate Admission, Classification, and Transfer; § 524, Classification of inmates.).

21 U.S.C. § 849 Transportation safety offenses.

No implementing regulations.

21 U.S.C. § 852 Application of treaties and other international agreements.

No implementing regulations.

21 U.S.C. § 853 Criminal forfeitures.

No implementing regulations.

21 U.S.C. § 854 Investment of illicit drug profits.

No implementing regulations.

It appears that there may be a potential for civil penalties for inappropriate drug-related behavior on postal property, but other than that, there are no implementing regulations for any penalty section in Subchapter I of Chapter 13, of Title 21 of the United States

Code. Continuing criminal enterprise is addressed by the Bureau of Prisons through transfer, classification, etc., but as previously demonstrated, the Attorney General may not imprison anyone who isn't charged with or convicted of an offense prescribed by "Act of Congress", such Act, per Rule 54(c) of the Federal Rules of Criminal Procedure, applicable in, "... the District of Columbia, in Puerto Rico, in a territory or in an insular possession."

There might be regulations of sorts pertaining to registration, reporting requirements, etc., but there is no need to pursue the matter as there is no civil or criminal enforcement authority within the several States behind any of these regulations, so even if import/export registration requirements are in place, we're left with the same question posed in the beginning: "So what?"

The more obvious default is at 21 U.S.C. § 852: There are no implementing regulations applicable to the Union of several States and the American people at large for treaties and other international agreements pertaining to regulation of controlled substances. The entire body of drug-related legislation, beginning with the Anti-Narcotic Act of 1914, has been predicated on these treaties and agreements. They simply do not apply to or in the Union of several States party to the Constitution as there is no constitutionally delegated authority for Congress to regulate any of the commodities itemized in the various schedules of controlled substances.

Where do these laws apply? In insular possessions of the United States, as evidenced at 48 U.S.C. § 1494b. We'll reproduce only subsection (a), as relates to American Samoa, as there is no need to repeat the same thing for Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands, and Paulo, all included in the section:

Sec. 1494b. Enforcement and administration in insular areas

(a) American Samoa

(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of American Samoa are authorized to —

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of sections 1494 to 1494c of this title, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General and the Secretaries of Education and Health and Human Services of the United States, as appropriate, are authorized to and, upon request of the Government of American Samoa, shall —

(A) train law enforcement officers and other personnel of the Government of American Samoa, and

(B) provide by purchase or lease law enforcement equipment and technical assistance to the Government of American Samoa to carry out the purposes of sections 1494 to 1494c of this title and any other Federal or territorial drug or other substance abuse laws.

(3) There are authorized to be appropriated $350,000 for fiscal year 1989 and annually thereafter for grants to the Government of American Samoa to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services to carry

out the purposes of sections 1494 to 1494c of this title, to remain available until expended.

(4) The Secretary of the Treasury in consultation with the Secretary of the Interior shall provide the Government of American Samoa with a vessel to be used in the enforcement of narcotics and other laws. There are authorized to be appropriated $500,000 for this purpose.

It is useful for orientation to reproduce a portion of one of the four opinions submitted in Downes v. Bidwell (1901), which by plurality established what is called the Downes Doctrine for insular possessions such as Puerto Rico, Guam, American Samoa, etc. The portion below does not address unincorporated insular possessions as such, but provides a perspective of territories v. the several States in general, and the long-held doctrine that once the Constitution has been extended even in a territorial possession of the United States, it cannot be withdrawn. In Downes, the plurality opinion concluded that unincorporated insular possessions enjoy constitutional assurances, benefits, and privileges only as Congress extends them, thus removing them a step from assurances secured in the District of Columbia and former incorporated territories, but this opinion segment (1) demonstrates the distinction between territory owned by the United States and the several States party to the Constitution, and (2) articulates the prohibition against Congress infringing on the Constitution once it has been extended to any given territory, whether the territory is a State of the Union or territory of the United States. The cite is Downes v. Bidwell, 21 S.Ct. 770, 182 U.S. 244, 45 L.Ed. 1088, at 182 U.S. 269:

In Springville v. Thomas, 166 U.S. 707, 41 L.Ed. 1172, 17 Sup.Ct.Rep. 717, it was held that the verdict returned by less than the whole number of jurors was invalid because in contravention of the 7th Article of Amendment to the Constitution and the act of Congress of April 7, 1874 (18 Stat. at L. 27, chap. 80), which provide "that no party has been or shall be deprived of the right of trial by jury in cases cognizable at common law." It was also intimated that Congress "could not impart the power to change the constitutional rule," which was obviously true with respect to Utah, since the organic act of that territory (9 Stat. at L. 458, chap. 51, § 17) had expressly extended to it the Constitution and laws of the United States. As we have already held, that provision, once made, could not be withdrawn. If the Constitution could be withdrawn directly, it could be nullified indirectly by acts passed inconsistent with it. The Constitution would thus cease to exist as such, and become of no greater authority than an ordinary act of Congress. In American Pub. Co. v. Fisher, 166 U.S. 464, 41 L.Ed. 1079, 17 Sup.Ct.Rep. 618, a similar law providing for majority verdicts was put upon the express ground above stated, that the organic act of Utah extended the Constitution over that territory. These rulings were repeated in Thompson v. Utah, 170 U.S. 343, 42 L.Ed. 1061, 18 Sup.Ct.Rep. 620, and applied to felonies committed before the territory became a state, although the state Constitution continued the same provision.

Eliminating, then, from the opinions of this court all expressions unnecessary to the disposition of the particular case, and gleaning therefrom the exact point decided in each, the following propositions may be considered as established:

1. That the District of Columbia and the territories are not states within the judicial clause of the Constitution giving jurisdiction in cases between citizens of different states;

2. That territories are not states within the meaning of Rev. Stat. § 709, permitting writs of error from this court in cases where the validity of a state statute is drawn in question;

3. That the District of Columbia and the territories are states as that word is used in treaties with foreign powers, with respect to the ownership, disposition, and inheritance of property;

4. That the territories are not within the clause of the Constitution providing for the creation of a supreme court and such inferior courts as Congress may see fit to establish;

5. That the Constitution does not apply to foreign countries or to trials therein conducted, and that Congress may lawfully provide for such trials before consular tribunals, without the intervention of a grand or petit jury;

6. That where the Constitution has been once formally extended by Congress to territories, neither Congress nor the territorial legislature can enact laws inconsistent therewith.

The issue in Downes was whether or not the Article I tax uniformity clause applied to commodities shipped from unincorporated insular possessions to the several States party to the Constitution. After hammering at the issue from every conceivable direction, without a majority of the justices standing on any single opinion, the plurality opinion conceded that insular possessions ceded by Spain in 1898 were not incorporated in the constitutional scheme, and therefore were foreign as Congress had not formally extended the Constitution to the former Spanish provinces. That had been the case in Utah, however, as pointed out in the opinion above, but even though the Constitution might be applicable in the District of Columbia and incorporated territories, Article III judicial authority of the United States does not extend to them. They are subject to Congress' plenary power (combined power of State and national government) under the Article IV § 3.2 territorial clause to the point the territory is admitted as a State of the Union.

Point 6 above is particularly important: "That where the Constitution has been once formally extended by Congress to territories, neither Congress nor the territorial legislature can enact laws inconsistent therewith."

If that's the case for territories, it's doubly the case for Congress and legislatures of the several States party to the Constitution: The Constitution of the United States is the law of the land in each of the several States, per mandate of the Constitution and constitutions of each of the several States. The Constitution of the State of Oklahoma sets this proclamation out in Article I, Section 1 — not part of it, but all of it, with the Tenth Article of Amendment prohibition against government of the United States exercising power not delegated by the Constitution fully intact.

The circle is closed: The Constitution does not delegate authority for Congress to regulate drugs or any other commodity. Regulations applicable to drug laws demonstrate that where "domestic" application of these laws is concerned, they amount to municipal law in insular possessions of the United States, with possible application in the District of Columbia. They do not apply to the Union of several States party to the Constitution.

II. Application of Internal Revenue Code Taxing Authority

Application of Federal tax laws, authority of the Internal Revenue Service, and various matters relating to the Internal Revenue Code have been addressed throughout this effort, so there is no need to reproduce every detail covered to this point. However, one of the more important points that needs to be emphasized is that Title 26 of the United States Code, as other titles of the Code, is not law — it is merely evidence of law. Where the Internal Revenue Code is concerned, it has not been enacted as positive law so doesn't

even qualify as "legal evidence". It is merely "prima facie" the law.

Without hairsplitting, it is probably fair to say the Internal Revenue Code is law by appearance. In order to unravel the Code so each tax accounted for in it, and application of administrative and judicial sections in Subtitle F could be properly interpreted, it would probably be necessary to track United States tax and judicial legislation to the time Congress convened under the Constitution in 1789, which would require pouring over the complete Statutes at Large (they take about 200 feet of shelf space), Treasury orders, treaties, reorganization plans, and volumes of court decisions. In fact, the Code has been defaulted as void for vagueness as it is impossible for most so-called experts to understand — mere mortals get impossibly lost in it. The only real favor in the thing is the general disclaimer at 26 U.S.C. § 7806:

Sec. 7806. Construction of title.

(a) Cross references.

The cross references in this title to other portions of the title, or other provisions of law, where the word "see" is used, are made only for convenience, and shall be given no legal effect.

(b) Arrangement and classification.

No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect. The preceding sentence also applies to the sidenotes and ancillary tables contained in the various prints of this Act before its enactment into law.

The fact that Title 26 has never been enacted as positive law, which would make it "legal evidence" of laws of the United States, is verified in the Preface to the 1994 edition of the United States Code, produced in the first volume of the complete Code. Therefore, it remains prima facie evidence of law, but legislative construction cannot be assumed even where one section follows another in numerical sequence, classification by subtitle, chapter, subchapter, or whatever. Each section must be tracked to its original source or sources in the Statutes at Large in order to determine legitimate application, the section must be wed to one or more general application regulations, proper lines of authority must be established, etc., before a section can be said to have "legislative construction."

Since this effort isn't intended to provide thorough treatment and a complete history of United States tax law, I've limited focus to underlying authorities and the legitimacy of agencies involved in the collection process and enforcement of the Federal taxing system. That will generally be the case in this section, although we will investigate some of the historical evolution of the current system.

One of the key questions is, "Where did the Internal Revenue Code come from?"

The first true "Internal Revenue Code" was the Internal Revenue Code of 1939. It seems that the 1939 Code was the point of demarcation for the Code we presently have as it was effected after the "Normal Tax" in the present Subtitle A, and Social Security and related taxes enacted in 1935 were on line. To that point, there was no effort to extend normal tax obligations to the general population — the normal tax was simply a tax on officers and employees of United States government, governments of United States political subdivisions, and officers of corporations in which United States government has a proprietary

interest. That remains the case today, the term "employee" defined at 26 U.S.C. § 3401(c), and "employer" at § 3401(d):

(c) Employee.

For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

(d) Employer.

For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person...

These definitions are applicable to Subtitle C, Chapter 24 — Collection of Income Tax At Source. The requirement for withholding is at § 3402:

Sec. 3402. Income tax collected at source.

(a) Requirement of withholding.

(1) In general. Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary...

Liability is prescribed at §§ 3403 & 3404:

Sec. 3403. Liability for tax.

The employer shall be liable for the payment of the tax required to be deducted and withheld under this chapter, and shall not be liable to any person for the amount of such payment.

Sec. 3404. Return and payment by governmental employer.

If the employer is the United States, or a State, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages may be made by any officer or employee of the United States, or of such State, or political subdivision, or of the District of Columbia, or of such agency or instrumentality, as the case may be, having control of the payment of such wages, or appropriately designated for that purpose.

Liability for collection, and payment, ultimately falls to withholding agents, or in the event of a third-party payee, the third party. Liability is established in Chapter 25 — General Provisions Relating to Employment Taxes and Collection of Income Taxes at Source, §§ 3504 & 3505:

Sec. 3504. Acts to be performed by agents.

In case a fiduciary, agent, or other person has the control, receipt, custody, or disposal of, or pays the wages of any employee or group of employees, employed by one or more employers, the Secretary, under regulations prescribed by him, is authorized to designate such fiduciary, agent, or other person to perform such acts as are required of employers under this title and as the Secretary may specify. Except as may be otherwise prescribed by the Secretary, all provisions of law (including penalties) applicable in respect of any employer shall be applicable to a fiduciary, agent, or other person so designated but, except as so provided, the employer for whom such fiduciary, agency, or other person acts shall remain subject to the provisions of law (including penalties) applicable

in respect of employers.

Sec. 3505. Liability of third parties paying or providing for wages.

(a) Direct payment by third parties.

For purposes of sections 3102, 3202, 3402, and 3403, if a lender, surety, or other person, who is not an employer under such sections with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) required to be deducted and withheld from such wages by such employer.

(b) Personal liability where funds are supplied.

If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge (within the meaning of section 6323(i)(1)) that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by this subtitle to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) which are not paid over to the United States by such employer with respect to such wages. However, the liability of such lender , surety, or other person shall be limited to an amount equal to 25 percent of the amount so supplied to or for the account of such employer for such purposes.

(c) Effect of payment.

Any amounts paid to the United States pursuant to this section shall be credited against the liability of the employer.

At no point is the ''employee'' made liable for these taxes. The lot falls to the officer or employee designated to withhold directly from wages, or to the lender, surety, or other person who supplies funds for whatever enterprise the tax is imposed against. We could chase this in a circle, but will simply cite the definition of ''withholding agent'' at § 7701(a)((16) to put other statutes into play:

(16) Withholding agent. The term ''Withholding agent'' means any person required to deduct and withhold any tax under the provisions of sections 1441, 1442, 1443, or 1461.

Before addressing the withholding agent further, we'll cite other definitions in § 7701(a) as useful keys to unraveling the Code. Of particular import, the definitions of ''United States'', ''State'', and ''Trade or business''. The latter opens the door to taxes prescribed in Subtitles A & C, so it will be cited first:

(26) Trade or business. The term ''trade or business'' includes the performance of the functions of a public office.

By employing the two limiting principles cited earlier, the above general definition applicable to the Internal Revenue Code limits consideration to the class of ''trade or business'' defined by example. Private enterprise is excluded from ''trade or business'' where the Internal Revenue Code is concerned. The field is thus narrowed to definitions of ''employee'' and ''employer'' at §§ 3401(c) & (d). The range of applicability is further narrowed by definitions of ''United States'' and ''State'':

(9) United States. The term ''United States'' when used in a geographical sense includes only the States and the District of Columbia.

(10) State. The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

We previously saw from the Downes decision that the District of Columbia, and territories and insular possessions of the United States, are not States of the Union where the Constitution is concerned. Therefore, the exclusionary language in the two definitions above, when reliant on use "in a geographical sense," must be exclusive of the several States party to the Constitution. This reinforces Paul Mitchell's contention that the Internal Revenue Code is for all practical purposes municipal law applicable in territory subject to sovereignty of the United States under Article IV § 3.2 of the Constitution. With the possible exception of the "normal tax" prescribed in Chapter 1, Subtitle A of the Internal Revenue Code, the rest of the taxes in Title 26 are applicable only in the States of the United States, which include insular possessions of the United States, except where the District of Columbia is specifically incorporated, as is the case in the definitions of "United States" and "State" at §§ 7701(a)(9) & (10). Definitions at § 3102(e), relating to the Federal Insurance Contributions Act, will be reproduced here again for comparative expediency as they are more explicit:

(e) State, United States, and citizen.

For purposes of this chapter —

(1) State. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(2) United States. The term "United States" when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

An individual who is a citizen of the Commonwealth of Puerto Rico (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

Given these definitions, a "United States trade or business" can at best be expanded to an officer or employee of United States government, and a "State trade or business" to an officer or employee of the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and governments of other insular possessions of the United States. Application of these taxes is therefore exclusive of (1) private enterprise, and (2) public office in the Union of several States party to the Constitution. The bridge the several States have used has generally been the Buck Act, located in Title 4 of the United States Code. There are no implementing regulations for Title 4 (Title 4 of the Code of Federal Regulations pertains to Accounts, and is under administration of the General Accounting Office in conjunction with the Department of Justice), so the bridge is as much illusion as other elements of Cooperative Federalism. Definitions in the Buck Act reinforce this conclusion.

The liability issue is clarified in regulations for §§ 1441, 1442, 1443 & 1446, with applicable regulations in 26 CFR §§ 1, 31 & 301; i.e., 26 CFR § 1.1441, 31.1441 & 301.1441, etc. Consult the Parallel Table of Authorities and Rules to determine which are general application regulations, but study all regulations pertaining to these sections whether they are listed as having general application or not.

In a previous section, I made two assertions that may have seemed outrageous: First, Congress effectively hid the Treasury of the United States in June 1921 by creating the General Accounting Office and moving former Treasury personnel to the office under

supervision of the Comptroller General, then via the act of Nov. 23, 1921, repealed virtually all taxes authorized by Article I and the Sixteenth Article of Amendment to the Constitution, with the various taxes, when reenacted, applicable exclusively within territory of the United States. The revenue act of Nov. 23, 1921, ch. 136, is at 42 Stat. 227; creation of the General Accounting Office and transfer of Treasury employees is at 42 Stat. 23. For purposes here, Historical and Revision Notes following 5 U.S.C. § 5512 follow:

In subsection (b) [of 5 U.S.C. § 5512], reference to the "General Accounting Office" is substituted for "accounting officers of the Treasury" on authority of the Act of June 10, 1921, ch. 18, title III, 42 Stat. 23. The words "on request of" are substituted for "if required to do so by" as more accurately reflecting the intent. Reference to the "Attorney General" is substituted for "Solicitor of the Treasury" and "Solicitor" on authority of section 16 of the Act of March 3, 1933, ch. 212, 47 Stat. 1517; section 5 of E.O. 6166, June 10, 1933; and section 1 of 1950 Reorg. Plan No. 2, 64 Stat. 1261.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Responsibility of the Comptroller General, as head of the General Accounting Office, is preserved in the current United States Code at 31 U.S.C. § 3702, Title 31 relating to Money and Finance:

Sec. 3702. Authority of the Comptroller General to settle claims

(a) Except as provided in this chapter or another law, the Comptroller General shall settle all claims of or against the United States Government. A claim that was not administratively examined before submission to the Comptroller General shall be examined by 2 officers or employees of the General Accounting Office independently of each other...

Unless or until a claim is submitted to the Comptroller General, in his capacity as head of the General Accounting Office, courts of the United States may not adjudicate it — suit for a claim which has not been denied by the General Accounting Office presents a claim for which relief may not be granted. Consequently, a suit against the United States, the Internal Revenue Service, or any other governmental entity will go nowhere until such time as the General Accounting Office makes a determination.

When the government makes a claim, the head of an executive or legislative agency has first responsibility for the attempted collection, as specified at 31 U.S.C. § 3711:

Sec. 3711. Collection and compromise

(a) The head of an executive or legislative agency —

(1) shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency;

(2) may compromise a claim of the Government of not more than $100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe that has not been referred to another executive or legislative agency for further collection or action; and

(3) may suspend or end collection action on a claim referred to in clause (2) of this subsection when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

(b) The Comptroller General has the same authority that the head of the agency has under subsection (a) of this section when the claim is referred to the Comptroller Gen-

eral for further collection action. Only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official.

[(c) not reproduced]

(d) A compromise under this section is final and conclusive unless gotten by fraud, misrepresentation, presenting a false claim, or mutual mistake of fact. An accountable official is not liable for an amount paid or for the value of property lost or damaged if the amount or value is not recovered because of a compromise under this section.

(e) The head of an executive or legislative agency acts under —

(1) regulations prescribed by the head of the agency; and

(2) standards that the Attorney General and the Comptroller General may prescribe jointly.

(f)(1) When trying to collect a claim of the Government under a law except the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), the head of an executive or legislative agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if... [balance of section not reproduced]

The portion of Subsection (f)(1) was included simply to demonstrate that collection of taxes prescribed in the Internal Revenue Code is included in the collection and compromise process prescribed in 31 U.S.C. § 3711. The initial collection effort, or negotiation on a claim, begins with the agency head, then goes to the Comptroller General or his delegate in the General Accounting Office if collection isn't successful or a claim against an agency isn't paid (compromised). If the Comptroller General determines that collection should be effected where a claim isn't paid, he is then responsible, via the Attorney General in his capacity as Solicitor of the Treasury, for initiating litigation. Where officers and employees of the United States subject to normal tax withholding are concerned, the necessity of this process is codified at 5 U.S.C. § 5512:

Sec. 5512. Withholding pay, individuals in arrears

(a) The pay of an individual in arrears to the United States shall be withheld until he has accounted for and paid into the Treasury of the United States all sums for which he is liable.

(b) When pay is withheld under subsection (a) of this section, the General Accounting Office, on request of the individual, his agent, or his attorney, shall report immediately to the Attorney General the balance due; and the Attorney General, within 60 days, shall order suit to be commenced against the individual.

Section 5512 tacitly provides the avenue for litigating contested assessments. Administrative withholding to satisfy a claim of the United States may be accomplished in only one of two ways: (1) consent on the part of the party withholding is from, or (2) litigation in a court of competent jurisdiction. If the "individual" the assessment is against contests and rejects whatever assessment lies against him, he "requests" that the General Accounting Office, via the Attorney General, initiate suit for collection —he does not consent to administrative collection without proper judicial process. This is verified in the section on garnishment at 5 U.S.C. § 5520a(b):

(b) Subject to the provisions of this section and the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) pay from an agency to an employee is subject to legal process in the same manner and to the same extent as if the agency were

a private person.

There is a small encumbrance to administrative seizure and admiralty/maritime seizure (in rem and in personam) actions employed by the Internal Revenue Service. The Fifth Article of Amendment due process clause is an absolute barrier — "No person shall ... be deprived of life, liberty, or property, without due process of law..." Per Wayman v. Southard (1825), cited earlier, the Fifth, Sixth, and Seventh Articles of Amendment assure due process in the course of the common law. Even United States government is obligated by contract to pay wages for work performed, so in the event an alleged liability is contested, the matter must be litigated in a court of competent jurisdiction in the course of the common law. Although linguistically tortured, 5 U.S.C. § 5512 preserves this constitutionally-secured right even for officers and employees of United States government.

Now back to the Internal Revenue Code, at § 7805:

Sec. 7805. Rules and regulations.

(a) Authorization.

Except where such authority is expressly given by this title to any person other than officer or employee of the Treasury Department, the Secretary shall prescribe all needful rules and regulations for the enforcement of this title...

Never-ending word games — the Treasury Department is not the Department of the Treasury. The reference above is to the Treasury of the United States, which has always been under congressional supervision. The General Accounting Office, via the June 1921 act cited above, became general agent of the Treasury of the United States, under supervision of the Comptroller General — due to recent legislation, GAO is now under a Director rather than the Comptroller General so titles are about to change again. Oh, what tangled webs they weave. At any rate, the Secretary isn't responsible for promulgating regulations for GAO — consult Title 4 of the Code of Federal Regulations for most of those regulations — but he is responsible for regulations pertaining to all other agencies that enforce Internal Revenue Code provisions.

In order to come to terms with this hocus-pocus, we're going back to definitions (11) & (12) in § 7701(a):

(11) Secretary of the Treasury and Secretary.

(A) Secretary of the Treasury. The term "Secretary of the Treasury" means the Secretary of the Treasury, personally, and shall not include any delegate of his.

(B) Secretary. The term "Secretary" means the Secretary of the Treasury or his delegate.

(12) Delegate.

(A) In general. The term "or his delegate" —

(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

(ii) when used with reference to any other official of the United States, shall be similarly construed.

(B) Performance of certain functions in Guam or American Samoa. The term "delegate," in relation to the Performance of certain functions in Guam or American Samoa with respect to the taxes imposed by chapters 1, 2, and 21, also includes any officer or employee

of any other department or agency of the United States, or of any possession thereof, duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform such functions.

The Treasury Department still isn't the Department of the Treasury. The delegate of the Secretary of the Treasury in the United States is, "any officer, employee, or agency of the Treasury Department..." The General Accounting Office is general agent of the Treasury of the United States; the Director, formerly the Comptroller General, is head of the General Accounting Office.

The Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms are agencies of the Department of the Treasury, Puerto Rico, both in the lineage of the Bureau of Internal Revenue, Puerto Rico, created by the provisional government of Puerto Rico in approximately 1900. These agencies are delegates of the Secretary in insular possessions of the United States, Guam and American Samoa evidently included. They operate in the framework of authority delegated to the Secretary of the Treasury via E.O. # 10289, and redelegated to the Commissioner of Internal Revenue via T.D.O. #150-42 (1956), as amended by T.D.O. #150-01 (1986). They have absolutely no constitutional or statutory authority in the Union of several States party to the Constitution.

Our focus is on Chapter 80 — General Rules, Subchapter A. — Application of Internal Revenue Laws. The subchapter includes §§ 7801-7811. Via § 7806, we established that the Internal Revenue Code is merely prima facie the law, no inference of legislative construction can be given to any section in the Code, and under stipulation of whatever legislation lies behind § 7805(a), the General Accounting Office is the delegate of the Secretary as general agent of the Treasury of the United States. Granted, we've gone around Robin Hood's barn to get where we're headed, but we've finally arrived at what may be the most critical and pivotal section in the Code, § 7804, which is in Chapter 80, Subchapter A:

Sec. 7804. Effect of reorganization plans.

(a) Application.

The provisions of Reorganization Plan Numbered 26 of 1950 and Reorganization Plan Numbered 1 of 1952 shall be applicable to all functions vested by this title, or by any act applicable to all functions vested by this title, or by any act amending this title (except as otherwise expressly provided in such amending act), in any officer, employee, or agency, of the Department of the Treasury.

(b) Preservation of existing rights and remedies.

Nothing in Reorganization Plan Numbered 26 of 1950 or Reorganization Plan Numbered 1 of 1952 shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For purposes of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

The Internal Revenue Code of 1954 (Vol. 68A of the Statutes at Large), as amended in

1986, is evidenced in Title 26 of the United States Code. But even Vol. 68A of the Statutes at Large is simply an amalgamation of the various Federal tax laws enacted through the years. It is not the original acts themselves, and it is in many respects incomplete. Examining historical transition of the Internal Revenue Code is important to help grasp implications of § 7804.

The biggest departure from the 1939 Code to the 1954 Code was administrative in nature, effected by the two reorganization plans listed in § 7804. Most of the administrative changes involved transfer of collection responsibilities from directly appointed revenue agents to the Bureau of Internal Revenue, a "professional" service. President Harry S. Truman's January 14, 1952 letter to Congress, which accompanied Reorganization Plan Numbered 1 of 1952, explains rationale and the process, reproduced below in relative part (full text follows § 7804 in Title 26 U.S.C.):

The task of collecting the internal revenue has expanded enormously within the past decade. This expansion has been occasioned by the necessity additional taxation brought on by World War II and essential post-war programs. In fiscal year 1940, tax collections made by the Bureau of Internal Revenue were slightly over 5 1/3 billions of dollars; in 1951, they totaled almost 50 1/2 billions. In 1940, 19 million tax returns were filed; in 1951, 82 million. In 1940, 19 million tax returns were filed; in 1951, 82 million. In 1940, there were 22,000 employees working for the Bureau; in 1951, there were 57,000...

Throughout this tremendous growth, the structure of the revenue-collecting organization has remained substantially unchanged. The present field structure of the Bureau of Internal Revenue is comprised of more than 200 field offices which report directly to Washington. Those 200 offices carry out their functions through more than 2,000 suboffices and posts of duty throughout the country. The Washington office now provides operating supervision, guidance, and control over the principal field offices through 10 separate divisions, thus further adding to the complexities of administration.

Since the end of World War II, many procedural improvements have been made in the Bureau's operations. The use of automatic machines has been greatly increased. The handling of cases has been simplified. One major advance is represented by the recently completed arrangements to expedite criminal prosecutions in tax-fraud cases. In these cases, field representatives of the Bureau of Internal Revenue will make recommendations for criminal prosecution directly to the Department of Justice. These procedural changes have increased the Bureau's efficiency and have made it possible for the Bureau to carry its enormously increased workload. However, improvements in procedure cannot meet the need for organizational changes.

Part of the authority necessary to make a comprehensive reorganization was provided in Reorganization Plan No. 26 of 1950, which was one of several uniform plans giving department heads fuller authority over internal organizations throughout their departments. The studies of the Secretary of the Treasury have culminated since that time in a plan for extensive reorganization and modernization of the Bureau. However, his existing authority is not broad enough to permit him to effectuate all of the basic features of the plan he has developed.

The principal barrier to effective organization and administration of the Bureau of Internal Revenue which plan No. 1 removes is the archaic statutory office of collector of internal revenue. Since the collectors are not appointed and cannot be removed by the

Commissioner of Internal Revenue or the Secretary of the Treasury and since the collectors must accommodate themselves to local political situations, they are not fully responsive to the control of their superiors in the Treasury Department. Residence requirements prevent moving a collector from one collection district to another, either to promote impartiality and fairness or to advance collectors to more important positions. Uncertainties of tenure add to the difficulty of attracting to such offices persons who are well versed in the intricacies of the revenue laws and possessed of broadgaged administrative ability.

It is appropriate and desirable that major political offices in the executive branch of the Government be filled by persons who are appointed by the President by and with the advice and consent of the Senate. On the other hand, the technical nature of much of the Government's work today makes it equally appropriate and desirable that positions of other types be in the professional career service. The administration of our internal-revenue laws at the local level calls for positions in the latter category.

Instead of the present organization built around the offices of politically appointed collectors of internal revenue, plan No. 1 [of 1952] will make it possible for the Secretary of the Treasury to establish not to exceed 25 district offices...

Mr. Truman's rationale had the ring of sincerity, and no doubt there is some merit in what he presented. But the letter also makes important disclosures: The "archaic statutory office of collector of internal revenue," which was administratively abolished by Reorganization Plan 1 of 1952, was not attached to the Bureau of Internal Revenue or the Department of the Treasury. The collector of internal revenue was attached to the Treasury Department, a/k/a Treasury of the United States, the Treasury being under congressional rather than executive control. The position was appointed, and as the U.S. Marshal, district judges, court clerks, United States Attorneys, etc., the collector of internal revenue was required to live in whatever district he was appointed to. He was accountable to the community in the same way local public servants are.

President Franklin D. Roosevelt used somewhat the same rationale to extend Bureau of Internal Revenue authority over the Federal Alcohol Administration Act via Reorganization Plan No. III of 1940. In relative part, Mr. Roosevelt's letter to Congress of April 2, 1940 is reproduced below:

The second reorganization affecting the Treasury Department vests in the Secretary of the Treasury full authority for the administration of the Federal Alcohol Administration Act. At present the Federal Alcohol Administration occupies an anomalous position. It is legally a part of the Treasury Department, but actually it is clothed with almost complete independence under existing statutory provisions. Under certain conditions the Administration would by law become an independent agency, whereas the interest of improved management require its integration with allied activities in the Treasury Department.

I propose, therefore, that the functions of the Federal Alcohol Administration be correlated with the activities of the Bureau of Internal Revenue, particularly its Alcohol Tax Unit. The Bureau is already performing a large part of the field enforcement work of the Administration and could readily take over complete responsibility for its work. The Bureau is daily making, for other purposes, a majority of the contacts with units of the liquor industry which the Federal Alcohol Administration should but cannot make without the establishment of a large and duplicating field force. Under the provisions of this plan, it will be possible more effectively to utilize the far-flung organization of the Treasury De-

partment, including its many laboratories, in discharging the functions of the Federal Alcohol Administration. Thus, I find the proposed consolidation will remedy deficiencies in organization structure as well as afford a more effective service at materially reduced costs.

Succession of administration of Federal law relating to distilled spirits is reflected in a note on page 762 of The United States Government Manual, 1996/97 edition:

Alcohol Control Administration, Federal

Established by E.O. 6474 of Dec. 4, 1933. Abolished Sept. 24, 1935, on induction into office of Administrator, Federal Alcohol Administration, as provided in act of Aug. 29, 1935 (49 Stat. 977). Abolished by Reorg. Plan No. III of 1940, effective June 30, 1949, and functions consolidated with activities of Internal Revenue Service.

Per Mr. Roosevelt's letter of April 2, 1940, it appears that the Bureau of Internal Revenue, predecessor of the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms, moved into the breach prior to Reorganization Plan III of 1940 — his letter discloses that BIR, with no statutory authority, was already performing many of the functions of the Federal Alcohol Administration, which was to have replaced the Federal Alcohol Control Administration in August 1935. A director for the Federal Alcohol Administration was appointed, but the Administration itself was never activated as the Constantine case was pending, and it appeared that repeal of the Eighteenth Article of Amendment in December 1933 was finally going to end concurrent State and Federal jurisdiction relating to regulation of production and distribution of alcoholic beverages. The Twenty-first Article of Amendment placed production and distribution of drinking alcohol under State option; concurrent State and Federal jurisdiction was secured in Section 2 of the Eighteenth Article of Amendment, had not been preserved with ratification of the Twenty-first. Therefore, Federal enforcement relating to alcohol, tobacco and firearms, now under jurisdiction of BATF, had to be limited to territory and other property of the United States, and United States admiralty and maritime jurisdiction. Reorganization Plan III of 1940 came nearly five years after the Constantine decision, long enough for Federal encroachment into certain areas to be under the cloak of forgetfulness, and for the general environment of the New Deal, launched in March 1933, to condition people to more direct involvement in everyday life. The illusion, however, didn't change the reality of law any more then than now — Congress didn't create the Bureau of Internal Revenue, and has never implemented anything resembling statutory authority for IRS and BATF to establish revenue districts of any sort in the several States.

Both Roosevelt and Truman abolished statutory offices and agencies, replacing them with administratively-created offices, and sometimes agencies, and where the Federal tax system is concerned, progressively moved collection and enforcement activity under administration of the Puerto Rican Bureau of Internal Revenue. For about a year in the 1930s, a Bureau of Internal Revenue had been incorporated as a private enterprise in a Northeastern State, but the corporation was abolished. The Puerto Rico link was evidently sufficient, particularly since the Social Security Act of 1935 had specified administration by the Bureau of Internal Revenue, with definitions at 26 U.S.C. § 3121 & 26 CFR § 31.3121 verifying exclusive United States territorial application. Origins are also verified by definitions at 27 CFR § 250.11:

Revenue Agent. Any duly authorized Commonwealth Internal Revenue Agent of the

Department of the Treasury of Puerto Rico.

Secretary. The Secretary of the Treasury of Puerto Rico.

Secretary or his delegate. The Secretary or any officer or employee of the Department of the Treasury of Puerto Rico duly authorized by the Secretary to perform the function mentioned or described in this part.

In order not to leave a stone unturned, we will go as far as possible to unearth sources, the first source being presidential authority for reorganization plans. President Roosevelt enacted reorganization plans under the act under an older reorganization plan statute, where Mr. Truman issued reorganization plans under the act of June 20, 1949, ch. 226, Sec. 3, 63 Stat. 203, which is no longer listed in the Parallel Table of Authorities and Rules, replaced by Pub. L. 89-554 of Sept. 6, 1966, 80 Stat. 394, and amended several times since. Application of current public laws will be examined momentarily, but first, the Code section evidencing authority for the President to implement reorganization plans should be considered, 5 U.S.C. § 903:

Sec. 903. Reorganization plans

(a) Whenever the President, after investigation, finds that changes in the organization of agencies are necessary to carry out any policy set forth in section 901(a) of this title, he shall prepare a reorganization plan specifying the reorganizations he finds are necessary. Any plan may provide for —

(1) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;

(2) the abolition of all or a part of the functions of an agency, except that no enforcement function or statutory program shall be abolished by the plan;

(3) the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions thereof, with the whole or a part of another agency or the functions thereof;

(4) the consolidation or coordination of part of an agency or the functions thereof with another part of the same agency or the functions thereof;

(5) the authorization of an officer to delegate any of his functions; or

(6) the abolition of the whole or a part of an agency which agency or part does not have, or on the taking effect of the reorganization plan will not have, any functions.

The President shall transmit the plan (bearing an identification number) to the Congress together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to carry out any policy set forth in section 901(a) of this title.

[subsections (b) & (c) not reproduced]

Criteria in § 901 requires justification of reorganization plans according to standards of economy and efficiency — there is no need to reproduce the section here. We'll simply examine authority of 5 U.S.C. § 9, and existing public laws which provide underlying authority for reorganization plans.

In the Parallel Table of Authorities and Rules, the general application regulation for 5 U.S.C. § 903 is listed as 28 CFR § 45:

Title 28 — Judicial Administration; Chapter I, Dept. of Justice (Parts 0-199); § 45, Standards of Conduct.

Public laws which replaced the 1949 act are as follows: Pub. L. 89-554, Sept. 6, 1966, 80

Stat. 394; Pub. L. 90-83, Sec. 1(99), Sept. 11, 1967, 81 Stat. 220; Pub. L. 92-179, Sec. 2, Dec. 10, 1971, 85 Stat. 574; Pub. L. 95-17, Sec. 2, April 6, 1977, 91 Stat. 30; and Pub. L. 98-614, Sec. 3(b)(10, (2), 4, Nov. 8, 1984, 98 Stat. 3192, 3193.

As in similar analysis, the public law is listed on the left, with regulations on the right:

Pub. L. 89-544 32 CFR § 716: Title 32 — National Defense; Subsection A — Department of Defense; Chapter VI — Department of the Navy (Parts 700-799); Subchapter C — Personnel; § 716, Death gratuity.

Pub. L. 90-83 No general application regulations.

Pub. L. 92-179 No general application regulations.

Pub. L. 95-17 No general application regulations.

Pub. L. 98-614 No general application regulations.

The underlying authority for presidents to promulgate reorganization plans is consistent with previous analysis relating to other subjects: The reorganization may apply solely to (1) government of the United States and political subdivisions of the United States, (2) United States admiralty and maritime jurisdiction, and (3) territories and insular possessions of the United States. There is no application to the Union of several States party to the Constitution.

We can now address the three reorganization plans: Section 2 of Reorganization Plan III of 1940, which placed administration of the Federal Alcohol Administration Act under administration of the Bureau of Internal Revenue was repealed by Pub. L. 95-258, Sec. 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085. Possibly it is a relief to some that Congress finally did something decisive, but as it turns out, there are no general application regulations listed in the Parallel Table of Authorities and Rules for Pub. L. 95-258, either. Consequently, the original transfer of authority for administration of the Federal Alcohol Administration Act to the Bureau of Internal Revenue, Puerto Rico still doesn't apply to the Union of several States party to the Constitution. In light of what has already been proven, the conclusion shouldn't be overly surprising.

Next, Reorganization Plan 26 of 1950, cited in 26 U.S.C. § 7804: The four sections in this reorganization plan were repealed by 1972 & 1982 legislation, again demonstrating that Congress has a will of its own. Section 1 was repealed by Pub. L. 97-258, Sec. 5(b), Sept. 13, 1982, 96 Stat 1068, 1085, "see" references as 31 U.S.C. § 321 & 49 U.S.C. § 108; Section 2 was repealed by Pub. L. 97-258, Sec. 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085, "see" reference as 31 U.S.C. § 321; Section 3 was repealed by Pub. L. 92-302, Sec. 1(d), May 18, 1972, 86 Stat. 149, "see" reference at 31 U.S.C. § 301; Section 4 was repealed by Pub. L. 97-258, Sec. 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085, "see" reference at 31 U.S.C. § 321.

No general application regulations for the two public laws are listed, so it will be useful to examine the United States Code sections listed as "see" references: 31 U.S.C. §§ 301 & 321, and 49 U.S.C. § 108. There are no general application regulations listed for 31 U.S.C. § 301, Title 31 being Money and Finance, § 301 pertaining to organization of the Department of the Treasury, or 49 U.S.C. § 49, Title 49 being Transportation, and § 108 establishing the Coast Guard as a department or agency in the Department of Transportation during peacetime. There are, however, a crop of regulations for 31 U.S.C. § 321, which prescribes general authority of the Secretary of the Treasury. All the general applications regulations listed are in Title 31 of the Code of Federal Regulations, Money and Finance: Treasury, with none pertaining to Title 26. The listed regulations are as follows: 31 CFR §§

1, 2, 10, 19, 21, 25, 26, 205, 206, 210, 337, 413 & 601. It's obvious that few if any of these regulations have much to do with the Internal Revenue Code and regulations promulgated thereunder, but true to resolve to look under every rock, each of these regulations will be accounted for:

31 CFR § 1 Title 31 — Money and Finance: Treasury; Subtitle A —Office of the Secretary of the Treasury (Parts 0-50); § 1, Disclosure of records.

31 CFR § 2 § 2, National security information.

31 CFR § 10 § 10, Practice before the Internal Revenue Service.

31 CFR § 19 § 19, Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

31 CFR § 21 § 21, New restrictions on lobbying.

31 CFR § 25 § 25, Prepayment of foreign military sales loans made by the Defense Security Assistance Agency and foreign military sales loans made by the Federal Financing Bank and guaranteed by the Defense Security Assistance Agency.

31 CFR § 26 § 26, Environmental review of actions by Multilateral Development Bands (MDBs).

31 CFR § 205 Subtitle B — Regulations Relating to Money and Finance; Chapter II — Fiscal Service, Department of the Treasury (Parts 200-399); Subchapter A — Financial Management Service; § 205, Rules and procedures for funds transfers.

31 CFR § 206 § 206, Management of Federal agency receipts, disbursements, and operation of the Cash Management Improvements Fund.

31 CFR § 210 § 210, Federal payments through financial institutions by the automated clearing house method.

31 CFR § 337 Subchapter B — Bureau of the Public Debt; § 337, Supplemental regulations governing Federal Housing Administration debentures.

31 CFR § 413 Chapter IV — Secret Service, Department of the Treasury (Parts 400 — 499); § 413, Closure of streets near the White House.

31 CFR § 601 Chapter VI — Bureau of Engraving and Printing, Department of the Treasury (Parts 600-699); § 601, Distinctive paper for United States currency and other securities.

It's nice to see that the Secret Service has regulatory authority to close streets near the White House, which is incidentally located in the District of Columbia (this is another Department of the Treasury agency or Bureau that has little or no legitimate authority in the several States), and that the Bureau of Engraving and Printing is required to use distinctive paper for United States currency and other securities. However, none of the regulations above directly mandate filing tax returns, etc., as might be expected from regulations promulgated under authority of Reorganization Plan 26 of 1950 and Public Laws that replaced the four sections of the plan.

Next we turn to Reorganization Plan 1 of 1952. Except for repeal of Section 2(b) via Pub. L. 97-258, Sec. 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085, this plan has been left intact. Subsection 2(b) established the office of Assistant General Counsel, 31 U.S.C. § 301. Section 3, which relates to appointment and compensation of Assistant Commissioners and district commissioners, now probably district directors, and the Assistant General Counsel, was amended via act of June 28, 1955, ch. 189, Sec. 12(c)(19), 69 Stat. 182. By consulting the Parallel Table of Authorities and Rules, it is found that there are no general appli-

cation regulations promulgated for Reorganization Plan 1 of 1952, the act that repealed Section 2, the act that amended Section 3, or 31 U.S.C. § 301.

It would appear that authorities have been exhausted, but thanks to an IRS Internet reply to Alan Tenore (Oct. 12, 1998; IDENTIFIER: irsnash5 #83778; http://www.irs.ustreas.gov/help/email-survey.html for a survey exercise, or http://www.irs.ustreas.gov/prod/help/newmail/user.html for questions), we need to address original enactments of the Internal Revenue Code.

Per the prepared response, the Internal Revenue Code of 1954 was enacted August 16, 1954, Pub. Law 591, then amended by the Tax Reform Act of 1986, Pub. L. 99-514. Although neither of these cites is complete, the act of 1954 is Volume 68A of the Statutes at Large, and the 1968 Public Law number can be referenced in the Parallel Table of Authorities and Rules.

In the Parallel Table of Authorities and Rules, Public Law cites begin with the 80th Congress, numbering being changed to reflect the Congress and the number of the law enacted in that particular session. The first Public Law listing using this numbering system is Public Law 80-806. Prior to that, the listing is by location in the Statutes at Large. For example, the 98th volume of the Statutes at Large, page 42 = 98 Stat. 42.

By turning to page 810 of the 1996 Code of Federal Regulations Index volume, it is found that Volume 68A of the Statutes at Large is not listed. However, sections in Volumes 68 and 69 are. Consequently, the conclusion must be that there are no implementing regulations for Volume 68A of the Statutes at Large, the 1954 Internal Revenue Code, or successive Secretaries of the Treasury have been derelict in their respective duties over a period spanning approximately 44 years. However, there are regulations listed for the Tax Reform Act of 1986, Pub. L. 99-514, so there must be an explanation for oversight of some kind relating to Vol. 68A. Regulations listed for Pub. L. 99-514 go a ways toward explaining the defect.

Pub. L. 99-514 appears on page 821 of the 1996 CFR Index volume. Listed regulations are 19 CFR § 354 and 26 CFR § 31.

The first regulation is reasonably easy to dispose of: Title 19 — Customs Duties; Chapter III — International Trade Administration, Department of Commerce (Parts 300-399); § 354, Procedures for imposing sanctions for violation of an antidumping or countervailing duty protective order.

The regulation which on the surface appears to be problematic is 26 CFR § 31: Title 26 — Internal Revenue, Department of the Treasury (Parts 1-799); Subchapter C — Employment Taxes and Collection of Income Tax at Source; § 31, Employment taxes and collection of income tax at source.

The first clue to 26 CFR § 31 application is the fact that all Chapter I regulations in Title 26 of the CFR are promulgated for Internal Revenue Service administration. They must be applicable in United States territorial, and conceivably in admiralty and maritime jurisdiction and as applicable to officers and employees of the United States and it's political subdivisions. However, because we have the cited regulation as applicable under the Tax Reform Act of 1986, we should investigate further to see if 26 CFR § 31 complies with authorities thus far established.

A cursory survey of authorities listed under "Authority 26 U.S.C. 7805", which requires the Secretary to promulgate regulations (Title 26 — Internal Revenue, volume containing

parts 30-39, April 1, 1998 Edition, pages 10 & 11), fails to list Pub. L. 99-514 as any unique authority for § 31. Authority appears to emerge almost exclusively from Vol. 68A of the Statutes at Large, with the exception of § 31.6053-3(b)(5), (h) and (j)(9), § 31.6053-4, § 31.6053-3T, and § 31.6053-4T (T = temporary regulations; have no binding effect). In addition to the Internal Revenue Act of 1954, Pub. L. 98-369, 98 Stat. 1052, is listed as an authority. General application regulations for Pub. L. 98-369 are listed as 49 CFR § 89, which is Transportation, in Subtitle A — Office of the Secretary of Transportation, § 89, Implementation of Federal Claims Collection Act.

Since Pub. L. 99-514 isn't specifically listed as authority in headnotes for 26 CFR § 31, there would appear to be inconsistency unless it can be internally demonstrated that the Tax Reform Act did not do anything significant to expand or alter application of the Internal Revenue Code of 1954.

Researchers and others interested in details of how administrative process relative to Subtitle A & C taxes is supposed to work, even for Federal employees subject to administration of the General Accounting Office, should read 26 CFR § 31, particularly Subpart G, as a multitude of procedural sins are exposed in these regulations.

Subpart A — Introduction, §§ 31.0-1 - 31.0-4, begins on page 11, of the April 1, 1998 edition of this volume. In order to secure subject matter, the introduction is as follows:

§ 31.0-1 Introduction.

(a) In general. The regulations in this part relate to the employment taxes imposed by subtitle C (chapters 21 to 25, inclusive) of the Internal Revenue Code of 1954, as amended. References in the regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, unless otherwise indicated. References to the Federal Insurance Contributions Act, the Railroad Retirement Tax Act, and the Federal Unemployment Tax Act are references to chapters 21, 22, and 23, respectively, of the Code. References to sections of law are references to sections of the Internal Revenue Code unless otherwise indicated. The regulations in this part also provide rules relating to the deposit of other taxes by electronic funds transfer.

(b) Division of regulations. The regulations in this part are divided into 7 subparts. Subpart A contains provisions relating to general definitions and use of terms, the division and scope of the regulations in this part, and the extent to which the regulations in this part supersede prior regulations relating to employment taxes. Subpart B relates to the taxes under the Federal Insurance Contributions Act. Subpart C relates to the taxes under the Railroad Retirement Tax Act. Subpart D relates to the tax under the Federal Unemployment Tax Act. Subpart E relates to the collection of income tax at source on wages under chapter 24 of the Code. Subpart F relates to the provisions of chapter 25 of the Code which are applicable in respect of the taxes imposed by chapters 21 to 24, inclusive, of the Code. Subpart G relates to selected provisions of subtitle F of the Code, relating to procedure and administration, which have special application in respect of the taxes imposed by subtitle C of the Code. Inasmuch as these regulations constitute Part 31 of Title 26 of the Code of Federal Regulations, each section of the regulations is preceded by a section symbol and 31 followed by a decimal point (§ 31.). Sections of law or references thereto are preceded by "Sec." or the word "section".

Those wishing to track the Social Security act and related legislation would be well served to read § 31.0-2, General definitions and use of terms, as cites for the original

Social Security Act of 1935 and major amendments through 1972 are listed in the definitions. The definition at § 31.0-2(e) is the only one that will be reproduced here:

(e) Subpart E. As used in Subpart E of this part, unless otherwise expressly indicated, tax means the tax required to be deducted and withheld from wages under section 3402 of the Code.

The withholding at 26 U.S.C. § 3402 relates to the so-called ''income'' tax, a/k/a ''normal'' tax. Therefore, 26 CFR § 31 relates to Social Security and related taxes, and income tax prescribed in Subtitle A of the Internal Revenue Code. Administrative procedure addressed in Subpart G therefore relates to both Social Security and income tax, where applicable, railroad retirement tax, unemployment tax, etc.

Although the subpart is reasonably long, I'm going to reproduce § 31.0-3, Scope of regulations, nearly in its entirety as there are important elements in it which I will underscore as a means of emphasis. Of particular note, definitions are applicable for determining liability:

§ 31.0-3 Scope of regulations.

(a) Subpart B. The regulations in Subpart B of this part related to the imposition of the employee tax and the employer tax under the Federal Insurance Contributions Act with respect to wages paid and received after 1954 for employment performed after 1936. In addition to employment in the case of remuneration therefor paid and received after 1954, the regulations in Subpart B of this part relate also to employment performed after 1954 in the case of remuneration therefor paid and received before 1955. The regulations in Subpart B of this part include provisions relating to the definition of terms applicable in the determination of the taxes under the Federal Insurance Contributions Act, such as ''employee'', ''wages'', and ''employment''. The provisions of Subpart B of this part relating to ''employment'' are applicable also, (1) to the extent provided in § 31.3121(b)-2, to services performed before 1955 the remuneration for which is paid after 1954, and (2) to the extent provided in § 31.3121(k)-3, to services performed before 1955 the remuneration for which was paid before 1955. (For prior regulations on similar subject matter, see 26 CFR (1939) Part 408 (Regulation 128).)

[(b) Subpart C omitted, relates to Railroad Retirement Tax Act]

(c) Subpart D. The regulations in Subpart D of this part relate to the imposition on employers of the excise tax under the Federal Unemployment Tax Act for the calendar year 1955 and subsequent calendar years with respect to wages paid after 1954 for employment performed after 1938. In addition to employment in the case of remuneration therefor paid after 1954, the regulations in Subpart D of this part relate also to employment performed after 1954 in the case of remuneration therefor paid before 1955. The regulations in Subpart D of this part include provisions relating to the definition of terms applicable in the determination of the tax under the Federal Unemployment Tax Act, such as ''employee'', ''employer'', ''employment'', and ''wages''. The regulations in Subpart D of this part also include provisions relating to the credits against the Federal tax for State contributions. (For prior regulations on similar subject matter, see 26 CFR (1939) Part 403 (Regulations 107).)

(d) Subpart E. The regulations in Subpart E of this part relate to the withholding under chapter 24 of the Code of income tax at source on wages paid after 1954, regardless of when such wages were earned. The regulations in Subpart E of this part include provi-

sions relating to the definition of terms applicable in the determination of the tax under chapter 24 of the Code, such as "employee", "employer", and "wages". (For prior regulations on similar subject matter, see 26 CFR (1939) Part 406 (Regulations 120).)

(e) Subpart F. The regulations in Subpart F of this part deal with the general provisions contained in chapter 25 of the Code, which relate to the employment taxes imposed by chapters 21 to 24, inclusive, of the Code. (For prior regulations on the subject matter of section 3501, see 26 CFR (1939) 411.802 and 408.803 (Regulations 114 and 128, respectively). For prior regulations on the subject matter of section 3504, see 26 CFR (1939) 406.807 and 408.906 (Regulations 120 and 128, respectively).)

(f) Subpart G. The regulations in Subpart G of this part, which are prescribed under selected provisions of subtitle F of the Code, relate to the procedural and administrative requirements in respect of records, returns, deposits, payments, and related matters applicable to the employment taxes imposed by subtitle C (chapters 21 to 25, inclusive) of the Code. In addition, the provisions of Subpart G of this part relate to adjustments and to claims for refund, credit, or abatement, made after 1954, in connection with the employment taxes imposed by subtitle C of the Internal Revenue Code of 1954, by chapter 9 of the Internal Revenue Code of 1939, or by the corresponding provisions of prior law, but not to any adjustment reported, or credit taken, in whole or in part on any return or supplemental return filed on or before July 31, 1960. The provisions of Subpart G of this part also relate to deposits of taxes imposed by subchapter B on chapter 9 of the 1939 Code or by corresponding provisions of prior law with respect to compensation paid after 1954 for services rendered before 1955. For other administrative provisions which have application to the employment taxes imposed by subtitle C of the Code, see Part 301 of this chapter (Regulations on Procedure and Administration). (The administrative and procedural regulations applicable with respect to a particular employment tax for a prior period were combined with the substantive regulations relating to such tax for such period. For the regulations applicable to the respective taxes for prior periods, see paragraphs (a), (b), (c), and (d) of this section.) Subpart G of this part also provides rules relating to the deposit of other taxes by electronic funds transfer.

Reproduction of § 31.0-3 was primarily to demonstrate that regulations in this part (1) apply to the group of taxes that issue under or in connection with the Social Security tax system, inclusive of unemployment tax, etc., and income tax prescribed in Subtitle A, and (2) definitions in 26 U.S.C. §§ 3121 & 3401 determine application of the tax.

We can dispose of whatever questions there might be concerning application of these regulations in reasonably short order by beginning with the definition of "American employer" at 26 CFR § 31.3121(g)-1:

§ 31.3121(h)-1 American employer.

(a) The term "American employer" means an employer which is (1) the United States or any instrumentality thereof, (2) an individual who is a resident of the United States, (3) a partnership, if two-thirds or more of the partners are residents of the United States, (4) a trust, if all of the trustees are residents of the United States, or (5) a corporation organized under the laws of the United States or of any State. For provisions relating to the terms "State" and "United States", see § 31.3121(e)-1.

(b) For provisions relating to services performed outside the United States by a citizen of the United States as an employee for an American employer, see paragraph (c)(3) of §

31.3121(b)-3 and paragraph (e) of § 31.3121(b)(4)-1.

We're back to definitions reproduced earlier, but the definitions of "State", "United States", and "citizen" at § 31.3121(e)-1 simply cannot be resisted:

§ 31.3121(e)-1 State, United States, and citizen

(a) When used in the regulations in this subpart, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Territories of Alaska and Hawaii before their admission as States, and (when used with respect to services performed after 1960) Guam and American Samoa.

(b) When used in the regulations in this subpart, the term "United States", when used in a geographical sense, means the several states (including the Territories of Alaska and Hawaii before their admission as States), the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. When used in the regulations in this subpart with respect to services performed after 1960, the term "United States" also includes Guam and American Samoa when the term is used in a geographical sense. The term "citizen of the United States" includes a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

Application of the definitions above have already been determined to be limited to territory of the United States, so we don't have to engage in speculation. The regulation, and the corresponding definition at 26 U.S.C. § 3121, say what they say. Social Security and kindred taxes have always been applicable only in territory of the United States, including Alaska and Hawaii prior to admission as States of the Union. There is and never has been a constitutionally enumerated power authorizing Congress to institutionalize socialistic government policy throughout the nation. This is one of the more sinister elements of Cooperative Federalism that travels hand-in-hand with the entire social welfare system — a mathematically impossible scheme that of necessity will bankrupt the American people.

The first exclusionary provision in § 31.3121(h)-1 for "American employer" is § 31.3121(b)-3(c)(3):

(3) By a citizen of the United States as an employee for an American employer. Services performed after 1954 outside the United States by a citizen of the United States as an employee for an American employer constitutes employment provided the services are not specifically excepted under section 3121(d). For definitions of "citizen of the United States" and "American employer", see §§ 31.3121(e)-1 and 3121(h)-1, respectively.

The second exclusionary cite is § 31.3121(e)-1, and applies to "Services performed on or in connection with a non-American vessel or aircraft." It's remote enough that it won't be reproduced here.

The definition of "citizen of the United States" has been problematic for many people. "Am I a citizen of the United States?" The definition above provides clarification: Even if the Fourteenth Article of Amendment extended "citizen of the United States" status to people throughout the several States party to the Union, which it didn't, the "citizen of the United States" the Internal Revenue Code addresses is geographically determined. The Fourteenth Article of Amendment was promulgated, never properly ratified, in order to extend citizenship status to African Americans liberated following the Civil War, and might be broadly construed to include other minorities of color who didn't enjoy the status of State citizens prior to the Civil War. Governments of the several States extended univer-

sal State citizenship without regard to race, color or creed, so as those the Fourteenth Article of Amendment directly affected died, their lineage enjoyed the status of State citizen in their respective States, and were not ''citizens of the United States'' where the Fourteenth Article of Amendment is concerned unless they went through the prescribed process necessary to become citizens of the United States.

However, Congress employed this mechanism beginning in 1917 to confer ''citizen of the United States'' status on people indigenous to insular possessions. The first act of this nature conferred ''citizen of the United States'' status on the people of Puerto Rico, then in the next decade, citizen of the United States status was conferred on people of the Virgin Islands. Dates when the indigenous people of American Samoa and Guam became ''citizens of the United States'' are referenced in the ''citizen'' definition above.

The effect is this: While the ''People of the United States'' (Constitution, Preamble) think of themselves as ''citizens of the United States,'' a rhetorical claim that had no substantive existence prior to 1868, the vast majority are not ''citizens of the geographical United States,'' as defined in § 3121(d) of the Internal Revenue Code of 1954, as amended. General application definitions of ''United States'' and ''State'' at 26 U.S.C. § 7701(a)(9) & (10) have the same effect as they include only insular possessions of the United States and the District of Columbia. In other words, being a ''citizen of the United States,'' as created in Section 1 of the Fourteenth Article of Amendment, and a ''citizen of Oklahoma'' or any other State of the Union, is irrelevant where the Internal Revenue Code is concerned. In order for ''citizen of the United States'' status to make any difference, the status must be determined by the ''citizen of the United States'' being so by virtue of citizenship in the District of Columbia, Puerto Rico, the Virgin Islands, Guam or American Samoa. It is a municipal or geographically specific citizenship, not a citizenship universal throughout the several States and possessions of the United States. Consequently, even if I as a citizen of Oklahoma am also a citizen of the United States, my United States citizenship is of no consequence where the Internal Revenue Code is concerned as I am not a citizen of the United States of the District of Columbia, Puerto Rico, etc. Application of the Internal Revenue Code is geographically specific, limited to territory and insular possessions of the United States subject to the Article IV § 3.2 territorial clause.

Evidence to this effect was already established when we tracked the President's authority to establish revenue districts (26 U.S.C. § 7621) through Executive Order #10289 and Treasury Delegation Order #150-42 (1956). The only revenue districts applicable to the several States are customs districts, administered by the United States Customs Service. There is absolutely no authority, whether statutory or regulatory, for the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms to establish revenue districts in the several States party to the Constitution.

Possibly a comment concerning the Parallel Table of Authorities and Rules is in order: In the past a few critics have attempted to discredit the Table. However, Congress mandated construction of reliable finding aids in the Federal Register Act (44 U.S.C. § 1510), and via a court order cited earlier, the Director of the Federal Register was ordered to compile and publish the prescribed finding aids. The purpose, as articulated by the court, is to avert imposition of secret law. In other words, the Parallel Table of Authorities and Rules is a disclosure mechanism intended for use by those who need to know what application Code sections and regulations have. And as is the case for the United States Code

relative to the Statutes at Large, that which is published in the Code of Federal Regulations is prima facie evidence of publication in the Federal Register. Further, responsibility for accuracy rests on the officer or agency responsible for maintaining the Table, per requirements set out at 1 CFR § 8.5:

§ 8.5 Ancillaries.

The Code shall provide, among others, the following-described finding aids:

(a) Parallel tables of statutory authorities and rules. In the Code of Federal Regulations Index or at such other place as the Director of the Federal Register considers appropriate, numerical lists of all sections of the current edition of the United States Code (except section 301 of title 5) which are cite by issuing agencies as rule-making authority for currently effective regulations in the Code of Federal Regulations. The lists shall be arranged in the order of the titles and sections of the United States Code with parallel citations to the pertinent titles and parts of the Code of Federal Regulations.

(b) Parallel tables of Presidential documents and agency rules. In the Code of Federal Regulations Index, or at such other place as the Director of the Federal Register considers appropriate, tables of proclamations, Executive orders, and similar Presidential documents which are cited as rulemaking authority in currently effective regulations in the Code of Federal Regulations.

(c) List of CFR sections affected. Following the text of each Code of Federal Regulations volume, a numerical list of sections which are affected by documents published in the Federal Register. (Separate volumes, "List of Sections Affected, 1949-1963" and "List of CFR Sections Affected, 1964-1972)", list all sections of the Code which have been affected by documents published during the period January 1, 1949, to December 31, 1963, and January 1, 1964, to December 31, 1972, respectively.) Listings shall refer to Federal Register pages and shall be designed to enable the user of the Code to find the precise text that was in effect on a given date in the period covered.

Responsibility of the various government agencies is at § 8.7:

§ 8.7 Agency cooperation.

Each agency shall cooperate in keeping publication of the Code current by complying promptly with deadlines set by the Director of the Federal Register and the Public Printer.

The Director and staff of the Federal Register set standards and provide support for agencies responsible for publishing documents in the various Federal Register publications (1 CFR, § 15), but responsibility for accuracy lies with the agencies respectively. Each agency has stiff requirements set out in 1 CFR, § 16, reproduced in applicable part below:

§ 16.1 Designation

(a) Each agency shall designate, from its officers or employees, persons to serve in the following capacities with relation to the Office of the Federal Register:

(1) A liaison officer and an alternate.

(2) A certifying officer and an alternate.

(3) An authorizing officer and an alternate.

The same person may be designated to serve in one or more of these positions.

(b) In choosing its liaison officer, each agency should consider that this officer will be the main contact between that agency and the Office of the Federal Register and that the

liaison officer will be charged with the duties set forth in § 16.2. Therefore, the agency should choose a person who is directly involve in the agency's regulatory program.

(c) Each agency shall notify the Director of the name, title, address, and telephone number of each person it designates under this section and shall promptly notify the Director of any changes.

§ 16.2 Liaison duties.

Each agency liaison officer shall —

(a) represent the agency in all matters relating to the submission of documents to the Office of the Federal Register, and respecting general compliance with this chapter;

(b) Be responsible for the effective distribution and use within the agency of Federal Register information on document drafting and publication assistance authorized by § 15.10 of this chapter;

(c) Promote the agency's participation in the technical instruction authorized by § 15.10 of this chapter; and

(b) Be available to discuss documents submitted for publication with the editors of the Federal Register.

§ 16.3 Certifying duties.

The agency certifying officer is responsible for attaching the required number of true copies of each original document submitted by the agency to the Office of the Federal Register and for making the certification required by §§ 18.5 and 18.6 of this chapter.

Each document must be certified under signature as correct, the seal of the office is optional. See referenced cites.

The Parallel Table of Authorities and Rules takes up 108 pages in the 1996 Index volume of the Code of Federal Regulations, which I've used for desktop convenience in construction of this discourse rather than constantly calling up the 1998 edition on computer CD. It isn't there for nothing. Congress mandated it by law, a court ordered it, the Director of the Federal Register set out requirements by regulation, and the agency responsible for maintaining any given section is required to certify authenticity. The Table must therefore be given the same credibility as other documents reproduced in the Code of Federal Regulations — it is prima facie evidence of publication in the Federal Register, or in this case, application of documents published in the Federal Register. If it isn't, it's a waste of time and a tremendous amount of public money.

Even at that, we haven't relied exclusively on the Parallel Table of Authorities and Rules. Instead, we've gone to the United States Code, tracked authority to original sources in the Statutes at Large, reproduced relative portions of Executive Orders, reorganization plans and presidential letters, examined regulations reproduced in the Code of Federal Regulations, reproduced original delegations of authority directly from the Federal Register, and otherwise filled gaps with principles of law and precedent court decisions.

The test is this: Is evidence of law, regulations, Executive Orders, executive delegations of authority, reorganization plans, statutory authority, et al, consistent with what the Parallel Table of Authority and Rules reflects? We've merely used the Parallel Table of Authorities and Rules as a navigation tool. Authorities it cites have proven to be authentic. By examining 26 CFR § 31, we demonstrated that the tax reform act of 1986 did not expand application of the Internal Revenue Code — IRS jurisdiction is limited to insular possessions of the United States and the District of Columbia.

In order to demonstrate accuracy of the Table, we'll go through one more exercise that will be of considerable interest to people plagued by notices of lien and levy issued under signature of Internal Revenue Service revenue offices. To do that, we'll track 26 U.S.C. § 6331 and related sections of the Internal Revenue Code, the core section headed, "Levy and distraint". In the course of the general analysis, we'll rely to a certain extent on research pertaining to seizures and levies by John J. Schlabach, an Internal Revenue Service-enrolled agent (tax accounting, etc., certified by IRS) from Colbert, Washington. Mr. Schlabach's research reinforces conclusions we'll demonstrate when finally returning to address implications of 26 U.S.C. § 7804: That is, administrative seizures via "notice of levy", without orders of a court of competent jurisdiction, are patently illegal. We will see when returning to § 7804 that the Internal Revenue Code preserves the right to due process of law, as contemplated by the Fifth, Sixth, and Seventh Articles of Amendment, and remedies for "redress of grievance" against those responsible for fraudulently seizing assets without properly executed court orders.

We'll begin the analysis by reproduction of 26 U.S.C. § 6331(a), the general authority subsection of the levy and distraint section. This should be of interest particularly to people who have had the unfortunate experience of receiving notices of lien and levy from IRS revenue officers and the like as alleged statutory authority is reproduced on the backs of most of these instruments, but § 6331(a) isn't cited. This omission roughly falls under the axiom, "Figures don't lie, but liars figure." The subsection is as follows:

Sec. 6331. Levy and distraint

(a) Authority of Secretary

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary on wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provide in this section.

The first obvious difficulty with this section is that it is an amalgamation or composite, as is the case for 28 U.S.C. § 132 relating to United States District Courts. At this juncture, I haven't had time to track down exactly when the amalgamation was effected, but suspect it was via the act for enactment of the Internal Revenue Code of 1954, or the act of Nov. 2, 1966, Pub. L. 89-719, title I, Sec. 104(a), 85 Stat. 520. The latter made significant changes in the entire lien and levy process as it came at approximately the time legislatures of all fifty States of the Union had fraudulently enacted the Uniform Commercial Code. The 1966 act was effected to reconcile Federal lien and levy process with the UCC. In the 1934 edition of the United States Code, the section appeared approximately as follows (portion added is left in strike-through text):

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (an such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary on wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

This portion was added, possibly as early as 1939, but more probably in 1954 or 1966:

Levy may be made upon the accrued salary on wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official.

The employer definition at 26 U.S.C. § 3401(d) has already been cited; the employer employs officers and employees of the United States, United States political subdivisions, and officers of corporations where the United States has a proprietary interest, as defined at 3401(c). The person made liable for tax withheld at the source is the withholding agent. The balance of § 6331(a) is applicable to excise taxes in Subtitle E, most of these taxes pertaining to alcohol, tobacco and firearms.

Here we'll pick up Mr. Schlabach's line: Whatever authority the Secretary of the Treasury and/or his delegates have is prescribed by statute. The Secretary's seizure authority is at 26 U.S.C. § 7321:

Sec. 7321. Authority to seize property subject to forfeiture.

Any property subject to forfeiture to the United States under any provision of this title may be seized by the Secretary.

We're going to pick this up again, so remember the phrase, "Any property subject to forfeiture..," as it is key to understanding § 6331 and other sections that address lien, levy, and seizure. We will now consider authority of internal revenue enforcement officers, at § 7608:

Sec. 7608. Authority of internal revenue enforcement officers.

(a) Enforcement of subtitle E and other laws pertaining to liquor, tobacco, and firearms.

Any investigator, agent, or other internal revenue officer by whatever term designated, whom the Secretary charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of subtitle E or of any other law of the United States pertaining to the commodities subject to tax under such subtitle for the enforcement of which the Secretary is responsible may —

(1) carry firearms;

(2) execute and serve search warrants and arrest warrants, and serve subpoenas and

summonses issued under authority of the United States;

(3) in respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the Unite States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and

(4) in respect to the performance of such duty, make seizures of property subject to forfeiture to the United States.

(b) Enforcement of laws relating to internal revenue other than subtitle E.

(1) Any criminal investigator of the Intelligence Division or the Internal Security Division of the Internal Revenue Service whom the Secretary charges with the duty of enforcing any of the criminal provisions of the internal revenue laws, any other criminal provisions of law relating to internal revenue for the enforcement of which the Secretary is responsible, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service, in the performance of his duties, authorized to perform the functions described in paragraph (2).

(2) The functions authorized under this subsection to be performed by an officer referred to in paragraph (1) are —

(A) to execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(B) to make arrests without warrant for any offense against the United States relating to the internal revenue laws committed in his presence, or for any felony cognizable under such laws if he has reasonable grounds to believe that the person to be arrested has committed or is committing any such felony; and

(C) to make seizures of property subject to forfeiture under the internal revenue laws.

[subsection (c) not reproduced]

We find authority to "make seizures of property subject to forfeiture" at §§ 7321 & 7608(a)(4) & (b)(2)(C). The language is explicit — the Secretary and properly designated revenue officers may make all seizure of property subject to forfeiture. Statutory language does not go beyond that point. And as it so happens, the Internal Revenue Code is very explicit when it comes to what property is subject to forfeiture, specific statutory provisions in Chapter 75, Subchapter C — Forfeitures. By appearance, the list is limited to Part I, Property subject to forfeiture, but there is a hidden gem in Part II that is the IRS back door out of the Internal Revenue Code. The escape hatch will be addressed in due course. The main list of property subject to forfeiture is at § 7301:

Sec. 7301. Property subject to tax.

(a) Taxable articles.

Any property on which, or for or in respect whereof, any tax is imposed by this title which shall be found in the possession or custody or within the control of any person, for the purpose of being sold or removed by him in fraud of the internal revenue laws, or with design to avoid payment of such tax, or which is removed, deposited, or concealed, with intent to defraud the United States of such tax or any part thereof, may be seized, an shall be forfeited to the United States.

(b) Raw materials.

All property found in the possession of any person intending to manufacture the same into property of a kind subject to tax for the purpose of selling such taxable property in

fraud of the internal revenue laws, or with design to evade the payment of such tax, may also be seized, and shall be forfeited to the United States.

(c) Equipment.

All property whatsoever, in the place or building, or any yard or enclosure, where the property described in subsection (a) or (b) is found, or which is intended to be used in the making of property described in subsection (a), with intent to defraud the United States of tax or any part thereof, on the property described in subsection (a) may also be seized, and shall be forfeited to the United States.

(d) Packages.

All property used as a container for, or which shall have contained, property described in subsection (a) or (b) may also be seize, and shall be forfeited to the United States.

(e) Conveyances.

Any property (including aircraft, vehicles, vessels, or draft animals) used to transport or for the deposit or concealment of property described in subsection (a) or (b), or any property used to transport or for the deposit or concealment of property which is intended to be used in the making or packaging of property described in subsection (a), may also be seized, and shall be forfeited to the United States.

Property described in § 7301 is obviously related to production and distribution of distilled spirits subject to licensing under the Federal Alcohol Administration Act. It might be construed as being applicable to production of tobacco products and conceivably even firearms, but we know application is to insular possessions of the United States, not the several States. Even at that, we are narrowing the range of forfeiture by listing those things the Internal Revenue Code itemizes as subject to forfeiture.

The next section identifying property subject to forfeiture provides the approach ramp for IRS' leap from the Internal Revenue Code:

§ 7302. Property used in violation of internal revenue laws.

It shall be unlawful to have or possess any property intended for use in violating the provisions of the internal revenue laws, or regulations prescribed under such laws, or which has been so used, and no property rights shall exist in any such property. A search warrant may issue as provided in chapter 205 of title 18 of the United States Code and the Federal Rules of Criminal Procedure for the seizure of such property. Nothing in this section shall in any manner limit or affect any criminal or forfeiture provision of the internal revenue laws, or of any other law. The seizure and forfeiture of any property under the provisions of this section and the disposition of such property subsequent to seizure and forfeiture, or the disposition of the proceeds from the sale of such property, shall be in accordance with existing laws or those hereafter in existence relating to seizures, forfeitures, and disposition of property or proceeds, for violation of the internal revenue laws.

Implications of § 7302 will become evident momentarily. In the meantime, the balance of property subject to forfeiture listed in §§ 7303 & 7304 needs to be accounted for to complete the survey:

§ 7303. Other property subject to forfeiture.

There may be seized and forfeited to the United States the following:

(1) Counterfeit stamps. Every stamp involved in the offense described in section 7208 (relating to counterfeit, reused, canceled, etc., stamps), and the vellum, parchment, document, paper, package, or article upon which such stamp was placed or impressed in

connection with such offense.

(2) False stamping of packages. Any container involve in the offense described in section 7271 (relating to disposal of stamped packages), and of the contents of such container.

(3) Fraudulent bonds, permits, an entries. All property to which any false or fraudulent instrument involved in the offense described in section 7207 relates.

§ 7304. Penalty for fraudulently claiming drawback.

Whenever any person fraudulently claims or seeks to obtain an allowance of drawback on goods, wares, or merchandise on which no internal tax shall have been paid, or fraudulently claims any greater allowance of drawback than the tax actually paid, he shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of $500, at the election of the Secretary.

When we consult the Parallel Table of Authorities and Rules, we find that §§ 7301 & 7302 aren't listed, regulations for § 7302 are 27 CFR §§ 24 & 252, and regulations for § 7304 are 27 CFR § 70. Title 27 of the Code of Federal Regulations includes the Federal Alcohol Administration Act, and is under Bureau of Alcohol, Tobacco and Firearms administrative jurisdiction. No general application regulations under these sections issue from Title 26 of the Code of Federal Regulations.

Remember, all judicial action to enforce forfeiture is supposed to issue as an in rem action in a United States District Court, per 26 U.S.C. § 7323, so we know that "venue" established by § 7323 is in one of the three remaining territorial courts, defined as courts of the United States at 18 U.S.C. § 23 — the United States District Courts of Guam, the Northern Mariana Islands, and the Virgin Islands. Therefore, we know that all forfeitures must be in insular possessions of the United States, or territorial waters. This conclusion reinforces the allegation that IRS and BATF, both successors of the Bureau of Internal Revenue, Puerto Rico, have absolutely no legitimate jurisdiction in the Union of several States. The legitimate United States District Court is a territorial court that does not exercise Article III judicial authority of the United States — it is an Article I legislative court. And beyond that, the in rem forfeiture action is admiralty-maritime in nature, proceeding in the course of the civil law, contrary to due process in the course of the common law assured by the Fifth, Sixth, and Seventh Articles of Amendment.

How is the IRS leap from the Internal Revenue Code accomplished? Via 26 U.S.C. § 7327:

§ 7327. Customs laws applicable.

The provisions of law applicable to the remission and mitigation by the Secretary of forfeitures under the customs laws shall apply to forfeitures incurred or alleged to have been incurred under the internal revenue laws.

The exit begins with § 7302, property used in violation of internal revenue laws, then the exit from the Internal Revenue Code is via § 7327, customs laws applicable. Seizures, including garnishment, are predicated on the notion of property used in violation of internal revenue laws. We know that this is the case as for the last several years, researchers across the country have decoded classification documents for literally hundreds of people subjected to IRS seizure and forfeiture. They are invariable red flagged as "illegal tax protesters", which is a trigger label, and are classified as high level and illegal drug dealers out of the Virgin Islands, Cayman Islands, etc. This is the underlying pre-

sumption IRS uses as justification for administrative seizures and/or criminal and civil prosecution in private United States District Courts situated in the Union of several States. These courts, without notice, presume to accommodate a change of venue from the District Court of the Virgin Islands under that court's concurrent maritime jurisdiction with district courts of the United States, 18 U.S.C. § 3241. The victim simply isn't informed that even if he is being prosecuted in a civil case, he is presumed to have committed an offense against customs laws of the United States in territorial waters of the Virgin Islands.

Those who haven't been exposed to the institutionalized criminal element of government have to be saying, "This can't be true! This is the most outrageous account imaginable!"

I hope that's the case, and I hope those who have read this far are sufficiently motivated to (1) take time to verify authorities that support conclusions presented in this discourse, and (2) demand that people who hold elected and appointed offices in United States government rebut conclusions with lawful authorities which satisfy criteria established in the section on five essential legal authorities. Most of this information is already in court pleadings around the country, it has been submitted to Federal judges in their respective administrative capacities, and has been submitted via the Director of the Administrative Office of United States Courts; IRS officials have failed to rebut or correct it, and various members of Congress stand mute, unwilling or unable to rebut the documented evidence. The best any of them can hope for — that the truth doesn't reach a sufficient number of people that there is a general demand for accountability.

This is not the place for sermonizing, so we will proceed. Again consulting the Parallel Table of Authorities and Rules, regulations for 26 U.S.C. § 7327 are listed as 27 CFR § 72, regulations under BATF administration. However, at this juncture we're not concerned with BATF, so there is obviously no regulation in Title 26 of the Code of Federal Regulations with general application within the Union of several States. However, there is an unlisted regulation at 26 CFR 403 pertaining to Internal Revenue Service enforcement of customs laws. This is the Internal Revenue Code off ramp. The route is from 26 U.S.C. § 7302, property used in violation of Internal revenue laws, to § 7327, customs laws, to 26 CFR § 403, which pertains to customs laws in Title 19 of the U.S.C. The exit is predicated on classification to whoever illicit IRS actions are against, whether in civil or criminal forums, being classified as an illegal tax protestor who has drug-related operations in insular possessions and territorial waters subject to Congress' Article IV § 3.2 legislative jurisdiction.

The scope of the regulation is set out at 26 CFR § 403.1:

§ 403.1 Personal property seized by the Internal Revenue Service.

Regulations in this part relate to personal property seized by officers of the Internal Revenue Service as subject to forfeiture as being involved, used, or intended to be used, as the case may be in any violation of the internal revenue laws other than Chapters 51 (distilled spirits), 52 (tobacco) and 53 (firearms), of the Internal Revenue Code of 1954 (I.R.C.).

The object of this seizure authority is personal property valued at $100,000 or less (26 U.S.C. § 7325), and coin-operated gaming devices (§ 7326(a)).

The delegation of authority to the Commissioner of Internal Revenue (T.D. 7433, 41 FR 39312, Sept. 15, 1976, as amended by T.D. 7525, 42 FR 64334, Dec. 23, 1977), is repro-

duced at 26 CFR § 403.25:

§ 403.25 Personal property subject to seizure.

Personal property may be seized by the Commissioner of Internal Revenue or his delegate for forfeiture to the United States when involved, used, or intended to be used, in violation of the internal revenue laws, other than Chapter 51 (distilled spirits), 52 (tobacco) and 53 (firearms) of the I.R.C. (Sec. 7321, 68A Stat. 869; 26 U.S.C. 7321).)

What does 26 U.S.C. § 7321 relate to?

Sec. 7321. Authority to seize property subject to forfeiture.

Any property subject to forfeiture to the United States under any provision of this title may be seized by the Secretary.

As demonstrated, property subject to forfeiture within the covers of the Internal Revenue Code is specifically enumerated save that which is "used in violation of internal revenue laws" (§ 7302). Therefore, property which is the object of seizure must be personal property valued under $100,000 (§ 7325), or coin-operated gaming devices (§ 7326(a)), under applicable customs laws (§ 7327). This conclusion is locked down by Subpart D — Remission or Mitigation of Forfeitures, at 26 CFR § 403.35:

§ 403.35 Laws applicable.

Remission or mitigation of forfeitures shall be governed by the customs laws applicable to remission or mitigation of penalties as contained in 19 U.S.C. 1613 and 19 U.S.C. 1618.

(Sec. 613, 46 Stat. 756, as amended, sec. 618, 46 Stat. 757, as amended, sec 7327, 68A Stat. 871; (19 U.S.C. 1613, 1618, 26 U.S.C. 7327))

The customs laws at issue grow out of the Tariff Act of 1930; Subtitle III — Administrative Provisions; Part V —Enforcement Provisions, but there have been several amendments since that cast a fog over how manipulation of administration was accomplished. We'll address some of the conspicuous incongruities, but first need to see authority of 19 U.S.C. §§ 1613 & 1618:

Sec. 1613. Disposition of proceeds of forfeited property

(a) Application for remission of forfeiture and restoration of proceeds of sale; disposition of proceeds when no application has been made

Except as provided in subsection (b) of this section, any person claiming any vessel, vehicle, aircraft, merchandise, or baggage, or any interest therein, which has been forfeited and sold under the provisions of this chapter, may at any time within three months after the date of sale apply to the Secretary of the Treasury if the forfeiture and sale was under the customs laws, or to the Commandant of the Coast Guard or the Commissioner of Customs, as the case may be, if the forfeiture and sale was under the navigation laws, for a remission of the forfeiture and restoration of the proceeds of such sale, or such part thereof as may be claimed by him. Upon the production of satisfactory proof that the applicant did not know of the seizure prior to the declaration or condemnation of forfeiture, and was in such circumstance as prevented him from knowing of the same, and that such forfeiture was incurred without any willful negligence or intention to defraud on the part of the applicant, the Secretary of the Treasury, the Commandant of the Coast Guard, or the Commissioner of Customs may order the proceeds of the sale, or any part thereof, restored to the applicant, after deducting the cost of seizure and of sale, the duties, if any, accruing on the merchandise or baggage, and any sum due on a lien for freight, charges,

or contribution in general average that may have been filed. If no application for such remission or restoration is made within three months after such sale, or if the application be denied by the Secretary of the Treasury, the Commandant of the Coast Guard, or the Commissioner of Customs, the proceeds of sale shall be disposed of as follows:

(1) For the payment of all proper expenses of the proceedings of forfeiture and sale, including expenses of seizure, maintaining the custody of the property, advertising and sale, and if condemned by a decree of a district court and a bond for such costs was not given, the costs as taxed by the court;

(2) For the satisfaction of liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

(3) The residue shall be deposited in the general fund of the Treasury of the United States.

(b) Disposition of proceeds in excess of penalty assessed under section 1592

If merchandise is forfeited under section 1592 of this title, any proceeds from the sale thereof in excess of the monetary penalty finally assessed thereunder and the expenses and costs described in subsection (a)(1) and (2) of this section or subsection (a)(1), (a)(3), or (a)(4) of section 1613b of this title incurred in such sale shall be returned to the person against whom the penalty was assessed.

(c) Treatment of deposits

If property is seized by the Secretary under law enforcement or administrated by the Customs Service, or otherwise acquired under section 1605 of this title, and relief from the forfeiture is granted by the Secretary, or his designee, upon terms requiring the deposit or retention of a monetary amount in lieu of the forfeiture, the amount recovered shall be treated in the same manner as the proceeds of sale of a forfeited item.

(d) Expenses

In any judicial or administrative proceeding to forfeit property under any law enforce or administered by the Customs Service or the Coast Guard, the seizure, storage, and other expenses related to the forfeiture that are incurred by the Customs Service or the Coast Guard after the seizure, but before the institution of, or during, the proceedings, shall be a priority claim in the same manner as the court costs and the expenses of the Federal marshal.

Sec. 1618. Remission or mitigation of penalties

Whenever any person interested in any vessel, vehicle, aircraft, merchandise, or baggage seized under the provisions of this chapter, or who has incurred, or is alleged to have incurred, any fine or penalty thereunder, files with the Secretary of the Treasury if under the customs laws, and with the Commandant of the Coast Guard or the Commissioner of Customs, as the case may be, if under the navigation laws, before the sale of such vessel, vehicle, aircraft, merchandise, or baggage a petition for the remission or mitigation of such fine, penalty, or forfeiture, the Secretary of the Treasury, the Commandant of the Coast Guard, or the Commissioner of Customs, if he finds that such fine, penalty, or forfeiture was incurred without willful negligence or without any intent on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine, penalty, or forfeiture, may remit or mitigate the same upon such terms and conditions as he deems

reasonable and just, or order discontinuance of any prosecution relating thereto. In order to enable him to ascertain the facts, the Secretary of the Treasury may issue a commission to any customs officer to take testimony upon such petition: Provided, That nothing in this section shall be construed to deprive any person of an award of compensation made before the filing of such petition.

By following references in the text of these two sections from Title 19, the link to drug-related offenses is reasonably easy to establish. However, at the moment, the link to Reorganization Plan 26 of 1950, cited in 26 U.S.C. § 7804, and subsequent authority delegated by E.O. #10289, and T.D.O. #150-42 (1956), is probably more important. The reorganization plan, and another plan promulgated in 1946, are cited as authorities in historical and revision notes following § 1613:

TRANSFER OF FUNCTIONS

By Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees, functions of Secretary of Commerce relating to remission and mitigation of fines, penalties and forfeitures incurred for violation of navigation laws were transferred to Commandant of Coast Guard and Commissioner of Customs, subject to direction and control of Secretary of the Treasury, except as otherwise required by law with respect to United States Coast Guard whenever it operates as a part of Navy. Accordingly, references to Commandant of Coast Guard and Commissioner of Customs substituted in text for "the Secretary of Commerce".

For transfer of functions of other officers, employees, and agencies of Department of the Treasury, with certain exceptions, to Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, Sec. 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Customs, referred to in text, is an officer in Department of the Treasury. Functions of Coast Guard and Commandant of Coast Guard excepted from transfer when Coast Guard is operating as part of Navy under sections 1 and 3 of Title 14, Coast Guard.

Coast Guard transferred to Department of Transportation, and functions, powers, and duties relating to Coast Guard of Secretary of the Treasury and of other officers and offices of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89-670, Sec. 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14. See section 108 of Title 49, Transportation.

Aside from connecting these customs duties-related sections to the 1950 reorganization plan that restructured basic administration authority by way of the Internal Revenue Code of 1954, the above note reflects some of the difficulty behind determining who has what authority, where it came from, where it might be applicable, and how legitimate it is. It's like playing, "Button, button, who has the button?"

Here is an example: During war, the Coast Guard operates under direction of the Navy; in peacetime, the Coast Guard operates under direction of the Director of the Department of Transportation, but at all times the Coast Guard is a military department subject to direct orders of the President. In other words, whether operating under military or civilian direction, the Coast Guard is a military organization. Consequently, the Coast

Guard has absolutely no civil enforcement authority in the Union of several States save possibly during times of invasion or rebellion (Art. IV § 4, Constitution).

The above sections, when understood properly, demonstrate three jurisdictions or areas of responsibility: The Coast Guard has primary responsibility over navigation laws on the high seas; the United States Customs Service has primary responsibility relating to customs districts in the Union of several States, as demonstrated earlier; and the Secretary of the Treasury, via his delegate, the Commissioner of Internal Revenue, has primary responsibility in insular possessions of the United States and their respective territorial waters. Delegation of territorial jurisdiction or venue authority to the Commissioner of Internal Revenue, and subsequently to IRS and BATF, was via T.D.O. #150-42 (1956), as amended by T.D.O. #150-1 (1986), under authority of E.O. #10289 and 26 U.S.C. § 7621.

We found in the Parallel Table of Authorities and Rules that authority for 26 U.S.C. § 7327 is listed as 27 CFR § 72. This corresponding regulation is acknowledged and specifically cited at 26 CFR § 403.2:

§ 403.2 Personal property seized by the Bureau of Alcohol, Tobacco and Firearms.

Regulations in 27 CFR Part 72 relate to personal property seized by officers of the Bureau of Alcohol, Tobacco and Firearms, as subject to forfeiture as being involved, used, or intended to be used, as the case may be, in any violation of Chapters 51 (distilled spirits), 52 (tobacco) and 53 (firearms), of the I.R.C., as well as certain other federal laws (Treasury Dept. Order No. 221 (June 6, 1972), 37 FR 11696; Treasury Dept. Order No. 221-3 (December 24, 1974), 40 FR 1084; Treasury Dept. Order No. 221-3 (Revision 2) (Jan. 14, 1977), 42 FR 3725)

Those interested in the pedigree of BATF can get a pretty good scope on the entity by looking up Treasury Delegation Orders listed above. BATF was split from IRS via the order of June 6, 1972, then scope of authority was fine-tuned by the other orders.

Providing there is IRS seizure under provisions of 26 U.S.C. § 7327, an innocent party may petition for return of the property or proceeds from sale. There is no particular form, although 26 CFR § 403.37 specifies that the petition should be typewritten on legal size paper and must be executed under oath, prepared in triplicate, and addressed to the District Director of the internal revenue district in which the property was seized. All copies must be certified under penalties of perjury, and copies of support exhibits should be attached to each of the triplicate petitions. Contents of the petition are prescribed in § 403.38. We'll reproduce only § 403.38(d) & (e) as these paragraphs list the drug-related crimes which are prosecutable in civil and criminal forums and ultimately make the connection with Title 18, the Criminal Code:

(d) Petitioner innocent party. If the petitioner did not commit the act which caused the seizure of his property, the petitioner should state how the property came into the possession of the person whose act did cause the seizure, and it should also state that the petitioner had no knowledge or reason to believe that the property would be involved or used in violation of the internal revenue laws. If the petitioner knows, at the time he files the petition, that the person in whose possession the seized property was at the time of the seizure had a record or reputation for committing commercial crimes, the petitioner should state in the petition whether the petitioner knew of such record or reputation before the petitioner acquired his interest in the property or before such other person came into possession of the property, whichever occurred later. For purposes of this paragraph,

the term "commercial crimes" includes, but is not limited to any of the following federal or state crimes:

(1) Offenses against the revenue laws; burglary; counterfeiting, forgery; kidnapping; larceny; robbery; illegal sale or possession of deadly weapons; prostitution (including soliciting, procuring, pandering, white slaving, keeping house of ill fame, and like offenses); extortion; swindling and confidence games; and attempting to commit, conspiring to commit, or compounding any of the foregoing crimes. Addiction to narcotic drugs and use of marijuana will be treated as commercial crimes.

(e) Documents supporting claim. The petition should be accompanied by copies, certified by the petitioner under oath as correct, of contracts, bills of sale, chattel mortgages, reports of investigators or credit reporting agencies, affidavits, and any other documents that would support the claims made in the petition.

Again, internal clues which reveal proper territorial application abound. Can IRS or any other Federal agency enforce "state and federal laws" within the several States party to the Constitution? The Constantine case, decided in December 1935, should have put that matter to rest for good. And merely reclassifying what are normally considered common law crimes subject to jurisdiction of each of the several States respectively as commercial crimes doesn't place them under Federal jurisdiction.

The revelation most people who have lost homes to IRS administrative seizure might be offended by is the notion that their respective homes were being used for prostitution or some other such offense against revenue laws of the United States. But, of course, they are never informed of what crime a home, car, occupational tools and the like have been used in, so they don't know how to defend against the in rem procedure presumed in administrative seizure. Yet, even that is fraud where a court of competent jurisdiction hasn't made a judicial award, as we shall see.

Now for the next significant clue, found at § 403.43(a):

§ 403.43 Final action.

(a) Petitions for remission or mitigation of forfeiture. (1) The Commissioner or his delegate shall either allow or deny any petition filed pursuant to these regulations. Such allowance or denial will constitute final action. If he allows the petition, the Commissioner or his delegate shall state the conditions, if any, of the allowance.

It would appear that the Secretary of the Treasury has delegated authority that isn't his to delegate. Congress has made the General Accounting Office general agent of the Treasury of the United States, and GAO, through the Comptroller General, now the Director, has final disposition of all claims of and against the United States. Since there is absolutely no statutory authority for the Secretary to delegate authority that is not vested in him or the President, we're left with one or two conclusions: Either the Secretary of the Treasury has usurped the legislative power of Congress, or such exercise of authority is applicable only in insular possessions of the United States.

The next giggle is this: Administrative seizure even in insular possessions of the United States is limited to property valued at $2,500 or less, and a reasonably small bond will force the matter to court:

§ 403.26 Forfeiture of seized personal property.

(a) Administrative forfeiture. (1) Personal property seized as subject to forfeiture under the internal revenue laws and this part which has an appraised value of $2,500.00 or

less shall be forfeited to the United States in administrative forfeiture proceedings except as otherwise provided in this section.

(2) If the Commissioner or his delegate seizes personal property which is forfeitable under the internal revenue laws and this part and which in his opinion is valued at $2,500.00 or less, he shall cause a list containing a particular description of the seized property to be prepared in duplicate and an appraisal thereof to be made by three sworn appraisers, selected by the Commissioner or his delegate, who shall be respectable and disinterested citizens of the United States residing within the internal revenue district wherein the seizure was made. Such list and appraisement shall be properly attested by the Commissioner or his delegate and such appraisers.

(3) If such forfeitable personal property is found by the appraisers to be of the value of $2,500.00 or less, the Commissioner or his delegate shall publish a notice once a week for three consecutive weeks, in some newspaper of the judicial district where property was seized, describing the articles and stating the time, place, and cause of their seizure, and requiring any person claiming them to appear and make such claim within 30 days from the date of the first publication of such notice.

(4) Any person claiming the personal property so seized, within the time specified in the notice, may file with the District Director of the internal revenue district in which the property was seized a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of $250, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation. The District Director shall transmit such claim, together with the duplicate list or description of the property seized, to the United States Attorney for the district in which such property was seized. Both the claim and the cost bond should be executed in quadruplicate.

(b) Judicial condemnation.. Personal property seized as subject to forfeiture under the internal revenue laws and this part which has an appraised value of more than $2,500 and such seized property which has an appraised value of $2,500 or less with respect to which a bond has been filed pursuant to paragraph (a)(4) of this section, shall be forfeited to the United States in judicial condemnation proceedings, as authorized by the Director, General Legal Services Division, Office of Chief Counsel, Internal Revenue Service, or his delegate.

There are a few obvious problems with the regulation above, aside from it demonstrating that internal revenue laws preserve due process requirements even for seizures under $2,500. One of the conspicuous problems is that the appraisers, being "citizens of the United States," must be resident in the district where the seizure takes place. Since we know the only internal revenue districts in the several States are customs districts under administration of the United States Customs Service, the regulation must apply to a jurisdiction other than the several States. Next, the Seventh Article of Amendment secures the right to jury trial in the course of the common law for all controversies involving in excess of twenty dollars: "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved..."

The Fifth Article of Amendment locks in the remedy: "No person shall be ... deprived of life, liberty, or property, without due process of law," in the course of the common law.

The condemnation proceeding, in the course of the civil law, is an in rem admiralty-

maritime action which is strictly prohibited by the Fifth, Sixth, and Seventh Articles of Amendment, per former Chief Justice John Marshall in Wayman v. Southard (1825), previously cited. Consequently, the nature of the proceeding again condemns process prescribed in 26 CFR § 403. It cannot apply to or in the Union of several States party to the Constitution. The only merit the regulation has is for people in the District of Columbia, Puerto Rico, the Virgin Islands, etc., to know they have recourse against IRS vandals who exceed lawful authority in territory of the United States.

This is one of the major virtues of 26 U.S.C. § 7804: The section secures remedies against revenue officers, agents and employees when they exceed lawful authority. We will examine the section in more detail, but first we have other fish to fry.

At 26 U.S.C. § 7321, we found that, "Any property subject to forfeiture to the United States under any provision of this title may be seized by the Secretary," then at § 7608(b)(2)(C), we found that the Internal Revenue Service has authority, "to make seizures of property subject to forfeiture under the internal revenue laws."

We have listed and examined all items made subject to forfeiture in Chapter 75, Subchapter C, including items subject to forfeiture under customs laws. The Internal Revenue Code is explicit and limited as to what is or isn't subject to forfeiture, i.e., levy, and generally speaking, wages subject to withholding at source do not fall into the category of "property" subject to forfeiture and the in rem admiralty-maritime action prescribed in territorial United States District Courts at § 7323. As demonstrated, the action prescribed at § 7323 is applicable (1) in territory of the United States where there is some licensed enterprise (alcohol, tobacco, firearms, etc.), under customs laws, and under navigation laws. The items subject to forfeiture include (1) those things subject to lien by virtue of licensing where liens are agreed to in the licensing process, (2) items subject to customs taxes, and (3) items used in the process of breaking internal revenue laws.

In the first case, the lien exists by virtue of conditions of the licensing agreement. In the latter two cases, liens arise out of judgments, with forfeitures under 26 CFR § 403 & 27 CFR § 72 arising via judgment subsequent to determination of specified criminal activity. If there is no criminal judgment, there can be no civil forfeiture judgment. The initial seizure, prior to judicial forfeiture via condemnation proceeding, must proceed on criminal probable cause. In the latter instance, if no crime has been committed, there is no basis for seizure or forfeiture, which are all part of the levy process, with judgment being antecedent to levy.

We'll address this in more detail, and demonstrate that this process is preserved in the Internal Revenue Code, but we need to return to the questionable provision in § 6331 relating to garnishment of wages for officers and employees of United States government, etc. By consulting the Parallel Table of Authorities and Rules, it is found that regulations prescribed for 26 U.S.C. §§ 6331-6343 are 27 CFR § 70. There is a regulation for 26 U.S.C. § 6334 at 26 CFR § 404, and for 26 U.S.C. § 6343 at 26 CFR § 301, but the basic authority for levy and distraint is in § 6331(a), and the only listed regulation is at 27 CFR § 70. This application is reinforced by the only regulation for liens (26 U.S.C. § 6321) also being 27 CFR § 70.

On the title page of Title 27 of the Code of Federal Regulations, the following is found:

Title 27 — Alcohol, Tobacco Products, and Firearms is composed of two volumes, parts 1-199 and part 200 to end. The contents of these volumes represent all current regula-

tions issued by the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, as of April 1, 1995.

Here I'm using the 1995 printed edition of Title 27 CFR distributed by the Government Printing Office rather than the electronic 1998 edition on CD as these regulations haven't changed much for several years and at the moment it is easier to use the printed copy rather than the computer-base CD. The above paragraph would suggest that all of Title 27 CFR is under administration of BATF, so at first blush it would be surprising to find regulations in Title 27 pertaining to garnishment of wages. That's a presumption I and other researchers made for several years when first discovering the Parallel Table of Authorities and Rules — I presumed that 27 CFR § 70 includes only regulations pertaining to liens and levy and distraint relating to licensing under Subtitle E of the Internal Revenue Code. That was a mistake. Somehow or another, the garnishment against government employees makes a magical appearance in the title and part.

Below are relevant portions of 27 CFR § 70, beginning with § 70.161, with certain portions highlighted by my underscoring for emphasis:

§ 70.161 Levy and distraint.

(a) Authority to levy — (1) In General. If any person liable to pay any tax neglects or refuses to pay the tax within 10 days after notice and demand, the regional director (compliance) or Chief, Tax Processing Center who initiated the assessment (or, on that official's request, any other regional director (compliance) or the Chief, Tax Processing Center) may proceed to collect the tax by levy, provided the taxpayer has been furnished the notice described in § 70.162(a) of this part. The regional director (compliance) or the Chief, Tax Processing Center may levy upon any property, or rights to property, whether real or personal, tangible or intangible, belonging to the taxpayer. The regional director (compliance) or the Chief, Tax Processing Center may also levy upon property with respect to which there is a lien provided by 26 U.S.C. 6321 for the payment of the tax ... As used in 26 U.S.C. 6331 and this section, the term "tax" includes any interest, additional amount, addition to tax, or assessable penalty, together with costs and expenses ... Levy may be made by serving Notice of Levy on any person in possession of, or obligated with respect to, property or rights to property subject to levy, including receivables, bank accounts, evidences of debt, securities and salaries, wages, commissions, or other compensation. Except as provided in § 70.162(c) of this part with regard to a levy on salary or wages, a levy extends only to property possessed and obligations which exist at the time of the levy. Obligations exist when the liability of the obligor is fixed and determinable although the right to receive payment thereof may be deferred until a later date ... Similarly, a levy only reaches property in the possession of the person levied upon at the time the levy is made. For example, a levy made on a bank with respect to the account of a delinquent taxpayer is satisfied if the bank surrenders the amount of the taxpayer's balance at the time the levy is made, including interest thereon to the date of surrender. The levy has no effect upon any subsequent deposit made in the bank by the taxpayer. Subsequent deposits may be reached only by a subsequent levy on the bank.

[paragraphs (2) & (3) omitted]

(4) Certain types of compensation. — (i) Federal employees. Levy may be made upon the salary or wages of any officer or employee (including members of the Armed Forces), or elected or appointed official, of the United States, the District of Columbia, or any agency

or instrumentality of either, by serving a notice of levy on the employer of the delinquent taxpayer. As used in this paragraph, the term "employer" means:

(A) The officer or employee of the United States, the District of Columbia, or of the agency or instrumentality of the United States or the District of Columbia, who has control of the payment of the wages, or

(B) Any other officer or employee designated by the head of the branch, department, or agency, or instrumentality of the United States or of the District of Columbia as the party upon whom service of the notice of levy may be made.

If the head of such branch, department, agency or instrumentality designates an officer or employee other than one who has control of the payment of the wages, as the party upon whom service of the notice of levy may be made, such head shall promptly notify the Director of the name and address of each officer or employee so designated and the scope or extent of the authority of such designee.

(ii) State and municipal employees. Salaries, wages, or other compensation of any officer, employee, or elected or appointed official of a State or Territory, or of any agency, instrumentality, or political subdivision thereof, are also subject to levy to enforce collection of any Federal Tax.

§ 70.162 Levy and distraint on salary and wages.

(a) Notice of intent to levy. Levy may be made for any unpaid tax only after the regional director (compliance) or the Chief, Tax Processing Center has notified the taxpayer in writing of the intent to levy. The notice must be given in person, left at the dwelling or usual place of business of the taxpayer, or be sent by certified or registered mail to the taxpayer's last known address, no less than 30 days before the day of levy. The notice of intent to levy is in addition to, and may be given at the same time as, the notice and demand described in § 70.161 of this part.

(b) Jeopardy. Paragraph (a) of this section does not apply to a levy if the regional director (compliance) or the Chief, Tax Processing Center has made a finding under § 70.161(a)(2) of this part that the collection of tax is in jeopardy.

(c) Continuing effect of levy on salary on wages. A levy on salary or wages is continuous from the time of the levy until the liability of which the levy arose is release under 26 U.S.C. 6343 and § 70.167 of this part... [most of this paragraph is omitted]

§ 70.163 Surrender of property subject to levy.

(a) Requirement — (1) In general. Except as otherwise provided in 26 U.S.C. 6332, relating to levy in the case of banks or life insurance and endowment contracts, any person in possession of (or obligated with respect to) property or rights to property subject to levy and upon which a levy has been made shall, upon demand of the official who made the levy, surrender the property or rights (or discharge the obligation) to the official who made the levy, except that part of the property or rights (or obligation) which, at the time of the demand, is actually or constructively under the jurisdiction of a court because of an attachment or execution under any judicial process.

(2) Property held by banks. (i) Any bank shall surrender any deposits (including interest thereon) in such bank only after 21 days after service of levy.

(ii) Notwithstanding paragraph (a)(1) of this section, if a levy has been made upon property or rights to property subject to levy which a bank engaged in the banking business in the United States or a possession of the United States is in possession of (or obli-

gated with respect to), the Director shall not enforce the levy with respect to any deposits held in an office of the bank outside the United States or a possession of the United States, unless the notice of levy specifies that the regional director (compliance) or the Chief, Tax Processing Center intends to reach such deposits. The notice of levy shall not specify that the regional director (compliance) or the Chief, Tax Processing Center intends to reach such deposits unless that official believes:

(A) That the taxpayer is within the jurisdiction of a U.S. court at the time the levy is made and that the bank is in possession of (or obligated with respect to) deposits of the taxpayer in an office of the bank outside the United States or a possession of the United States; or

(B) That the taxpayer is not within the jurisdiction of a U.S. court a[t] the time the levy is made, that the bank is in possession of (or obligated with respect to) deposits of the taxpayer in an office outside the United States or a possession of the United States, and that such deposits consist, in whole or in part, of funds transferred from the United States or a possession of the United States in order to hinder or delay the collection of a tax imposed by provisions of 26 U.S.C. enforced and administered by the Bureau.

(b) Enforcement of levy. — (1) Extent of personal liability. Any person who, upon demand of the regional director (compliance) or the chief, Tax Processing Center, fails or refuses to surrender any property or right to property subject to levy is liable in his/her own person and estate in a sum equal to the value of the property or rights not so surrendered, together with costs and interests. The liability, however, may not exceed the amount of the taxes for the collection of which the levy was made. Interest is to be computed at the annual rate referred to in regulations under 26 U.S.C. 6221 from the date of the levy, or, in the case of a continuing levy on salary or wages (see 26 U.S.C. 6331(e)), from the date the person would otherwise have been obligated to pay over the wages or salary to the taxpayer. Any amount recovered, other than cost, will be credited against the tax liability for the collection of which the levy was made.

(2) Penalty for violation. In addition to the personal liability described in paragraph (b)(1) of this section, any person who is required to surrender property or rights to property and who fails or refuses to surrender them without reasonable cause is liable for a penalty equal to 50 percent of the amount recoverable under 26 U.S.C. 6332(d)(2). No part of the penalty described in this subparagraph shall be credited against the tax liability for the collection of which the levy was made. The penalty described in this subparagraph is not applicable in cases where a bona fide dispute exists concerning the amount of the property to be surrendered pursuant to a levy or concerning the legal effectiveness of the levy. However, if a court in a later enforcement suit sustains the levy, then reasonable cause would usually not exist to refuse to honor a later levy made under similar circumstances.

(c) Effect of honoring levy. Any person in possession of, or obligated with respect to, property or rights to property subject to levy and upon which a levy has been made who, upon demand by the regional director (compliance) or the Chief, Tax Processing Center, surrenders the property or rights to property, or discharges the obligation, to that official, or who pays a liability described in paragraph (b)(1) of this section, is discharged from any obligation or liability to the delinquent taxpayer with respect to the property or rights to property arising from the surrender or payment. If an insuring organization sat-

isfies a levy with respect to a life insurance or endowment contract in accordance with § 70.164 of this part, the insuring organization is discharge from any obligation or liability to any beneficiaries of the contract arising from the surrender of payment. Also, it is discharged from any obligation or liability to the insured or other owner. Any person who mistakenly surrenders to the United States property or rights to property not properly subject to levy is not relieved from liability to a third party who owns the property. The owners of mistakenly surrendered property may, however, secure from the United States the administrative relief provided for in 26 U.S.C. 6343(b) or may bring suit to recover the property under 26 U.S.C. 7426.

Underscored portions of regulations reproduced above should provide adequate orientation for those who have read through and studied material in this discourse to this point, but a certain amount of discussion is probably warranted. Two important facts need to be set out at the onset: (1) The majority of these regulations address levy of property in possession of third parties, and (2) there are two provisions relating to wages and salaries. The first might relate to levy arising from a claim under obligations from miscellaneous excise taxes or customs duties where an employer isn't directly involved with that particular enterprise. In that event, each levy issues only against existing obligations. Only levies against wages of officers and employees of the United States and its political subdivisions have continuing effect, and the "employer" in that case is the government agency employing the officer or employee. It's exclusive of private enterprise, whether in the several States or possessions of the United States. These regulations are from Title 27 of the Code of Federal Regulations, of course, and administration is tacitly under BATF (IRS?) rather than General Accounting Office administration, so application here is in insular possessions of the United States and the District of Columbia. When William Cooper and Bill Bentson published research demonstrating that IRS and BATF are agencies of the Department of the Treasury, Puerto Rico, they were somewhat amazed by a Treasury Delegation Order that names IRS as director of BATF — these regulations appear to explain reasoning behind the strange delegation order.

These regulations also determine the location of banks required to surrender money on deposit in § 70.163(a)(2): If a branch of a bank is outside the geographical United States, including insular possessions, there is no legal obligation to surrender accounts on a levy unless the regional director (compliance) or the Chief of the Tax Processing Center has so designated, the designation of necessity supported by order of a court of competent jurisdiction. Since territorial United States District Courts do not exercise Article III judicial authority of the United States, the court order extending to a bank in Kansas would have to come from the Article III district court of the United States for the District of Kansas.

Litigation to determine liability would issue in the name and by authority of the United States against the alleged taxpayer with a bona fide tax liability. Once the liability was adjudicated against the taxpayer, the judgment would become a lien against him or her. The judgment would then be the basis of levy and distraint. Third parties in possession of property belonging to the taxpayer would be obligated to surrender whatever property belonging to the taxpayer they had in possession or had control of. The responsible officer, whether the General Accounting Office in the several States, or BATF or IRS in the District of Columbia or any given insular possession of the United States, would be re-

sponsible for issuing a "notice of levy", along with proof of claim, being an authentic court order, to whoever was in possession of property being seized.

IRS agents are fully aware of the due process requirement. The first rule governing administrative settlements, at 26 CFR § 601.106(f)(1), acknowledges the Fifth Article of Amendment requirement of due process of law:

(1) Rule I. An exaction by the U.S. Government, which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Article of Amendment to the U.S. Constitution...

In light of the due process requirement in the Union of several States and in territory and insular possessions of the United States, liability of the third party in possession of property subject to levy is clarified. Liability for surrender of property belonging to a third person is exonerated providing the levy has been judicially executed, but not if it hasn't been. Surrender of wages, bank accounts or anything else where there is no evidence of a court order to support a "notice of levy" leaves an employer, bank, or whatever in jeopardy to the proper owner. If the owner sues for recovery and damages, the third party middleman might recover loss and expense under provisions of 26 U.S.C. §§ 6343(b) & 7426, but the probability of an IRS agent volunteering to serve time if the injured party elects to seek criminal prosecution of whoever has deprived him or her of property without due process of law is pretty remote. Therefore, the middleman third party might find it prudent to demand certified court orders, as specified in the latter part of 27 CFR § 70.163(b)(2), before surrendering anything to the Internal Revenue Service, the Bureau of Alcohol, Tobacco an Firearms, the United States Customs Service, or even the General Accounting Office. Unless or until the Fifth Article of Amendment is repealed or amended, the mandate for due process of law is absolute and without exception. To abridge that constitutionally-secure right is criminal, it is not simply a civil matter.

As Mr. Schlabach points out in his research, levy and distraint are elements of a process, they are not stand-alone actions. In his May 27, 1997 analysis prepared for a client, Mr. Schlabach makes the following observation:

There are two concepts for me to get across. It is important to discuss the difference between a "levy" and a "seizure". A "seizure" means the act of taking into custody or control something which before was not in custody or control. A "levy" is not a single act, but rather is the whole process by which the money needed to pay a tax is raised, either by exercising control over something already in custody and control of the government or by distraining and seizing property not already in custody of the government. The levy process includes the sale of levied property and the application of the proceeds to the unpaid tax.

I must now advise you that a, "Notice of Levy", is not a levy or seizure. The "Notice of Levy" has no legal effect in the private sector unless it is accompanied with a Judicial Court Order and a "Notice of Seizure"...

The easy way to get through the maze is simply to go to Chapter 76, Judicial Proceedings: We've already cited original jurisdiction of the district court of the United States, "at the instance of the United States," for civil actions at 26 U.S.C. § 7402. It's a reasonably simple matter to read the next section, which clarifies the need for judicial determination of legitimacy of liens, and to bring property under control of the United States when it isn't specifically secured by a lien:

Sec. 7403. Action to enforce lien or to subject property to payment of tax.

(a) Filing.

In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or his delegate, at the request of the Secretary, may direct a civil action to be filed in a district court of the United States to enforce the lien of the United States under this title with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which he has any right, title, or interest, to the payment of such tax or liability. For purposes of the proceeding sentence, any acceleration of payment under section 6166(g) shall be treated as a neglect to pay tax.

(b) Parties.

All persons having liens upon or claiming any interest in the property involved in such action shall be made parties thereto.

(c) Adjudication and degree.

The court shall, after the parties have been duly notified or the action, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property, and, in all cases where a claim or interest of the United States therein is established, may decree a sale of such property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States. If the property is sold to satisfy a first lien held by the United States, the United States may bid at the sale such sum, not exceeding the amount of such lien with expenses of sale, as the Secretary directs.

(d) Receivership.

In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Secretary during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

Sections in the Internal Revenue Code relating to administration and administrative enforcement are simply grouped together in 6000 numbering ahead of the judicial, numbered 7401 and up, for classification convenience. Each of the sections may be prima facie the law, or evidence of law, but as stipulated at § 7806, "Construction of title," no legislative construction is implied by location of any section in the Internal Revenue Code. There obviously must be adjudication by a court of competent jurisdiction before any agency that purports to represent the executive branch of government can deprive any of the sovereign American people of life, liberty, or property. This conclusion should be so obvious as not to warrant question or discussion, but bully tactics of the Federal Alphabet Brotherhood have so cowed the general population that most grow shag and play carpet rather than stand on the law either in defense or to secure redress for illegal acts which many times result in the compromise of third parties. This is the purpose of 26 U.S.C. § 7804(b), reproduced a second time below:

(b) Preservation of existing rights and remedies.

Nothing in Reorganization Plan Numbered 26 of 1950 or Reorganization Plan Numbered 1 of 1952 shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum

alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For purposes of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

What rights and remedies are "existing"? If the Constitution of the United States is still the law of the land, all rights secured by the Bill of Rights, and whatever other rights the Constitution secures, are "existing rights." In the Union of several States, due process in the course of the common law is among the existing rights, and in insular possessions of the United States, due process in the course of the civil law. Through legislation and court rulings, people indigenous to insular possessions have for the most part secured the right to jury trial, even if under quasi-admiralty rules, so application of § 7804(b) is universal within the "American empire."

With that in mind, we'll examine the first sentence of § 7804(b) with editorial modification that clarifies what it means: "Nothing in [the Internal Revenue Code] shall be considered to impair any right [including trial by jury], or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws."

A basic concept needs to be emphasized: He who has no rights has no remedies. Since the Constitution secures rights of the People via the Bill of Rights, appropriate remedies are assumed. So far as the people of the Union of several States are concerned, both rights an remedies secured by eight centuries of British-American common law heritage are assumed, so the right to trial by jury is preserved for both defendant and plaintiff.

Further, the first sentence of § 7804(b) throws the door wide open so far as causes are concerned. An action may proceed on the allegation of "erroneously or illegally assessed or collected" tax. And, of course, if an assessment or collection action was patently illegal, an affidavit of criminal complaint should naturally proceed against whoever was responsible for assessment and/or collection proceedings. In the event a properly constructed affidavit of criminal complaint is filed in the appropriate district court of the United States, the district judge is obligated to hold a probable cause hearing. Whoever files the affidavit of criminal complaint may support the complaint with personal testimony, documentary evidence, and witnesses, even if hostile. They simply have to be subpoenaed, and some documents might have to be secured by subpoena duces tecum.

The second sentence of § 7804(b) is just as important: "For purposes of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action."

It's a somewhat jaded notion that dates to the time North American colonies settled by English people were still British subjects, but the idea that the sovereign could not commit a crime against his subjects is preserved in our judicial lineage. When the People of the United States delegated powers to the United States via the Constitution, United States

Government became a sovereign of sorts. The government, being a legal fiction, cannot transgress rights of the people. Therefore, the government, which cannot act of its own accord, cannot be sued except by consent. Congress has enacted consent statutes for certain situations, but where the Internal Revenue Code is concerned, Congress has specified that litigation for civil remedies must issue against the actual perpetrator, being the revenue officer or whoever else was involved in an erroneous or illegal assessment or collection action.

However, consider this: If a complaint against the erroneous or illegal assessment or collection action is filed with the district director, and subsequently with the Commissioner of Internal Revenue, either or both are obligated first to correct erroneous or illegal assessment or collection actions, and if the actions were illegal, to file appropriate complaints. Of course, a cover letter might stipulate that the injured party will file an enclosed affidavit of criminal complaint with the stipulation that the district director, Commissioner of Internal Revenue, or whatever other officer is implicated will be a witness to facts and law set out in the complaint. Approached properly, superior officers become witnesses in support of criminal prosecution, or they become accessories after the fact who might be prosecuted for misprision of felony, or where the Internal Revenue Service and other Federal agencies are de facto agents of a government foreign to the United States, misprision of treason. And there might be an excellent case for conspiracy to defraud the lawful government of the United States.

Finally, the last sentence has considerable merit: ''The venue of any such action shall be the same as under existing law.''

IRS and BATF are agencies of the Department of the Treasury, Puerto Rico, with jurisdiction in the District of Columbia and insular possessions of the United States. They have no lawful authority in the Union of several States. Therefore, if IRS officers and agents execute illegal assessments and collections in one of the several States party to the Constitution, venue is determined by the location of the criminal enterprise. It's my opinion that the injured party has a choice between prosecution under law of his home asylum State or Federal law. However, civil and criminal remedies must be prosecuted in the same forum, whether State or Federal.

In his analysis of the required levy-seizure process, Mr. Schlabach cites several decisions researchers will want to pursue: Brewer v. U.S., 764 F. Supp. 309, 315 (S.D.N.Y. 1991); Arfor v. United States, 934 F.2 229 (9th Cir. 1991); Freeman v. Meyer, 152 F. Supp. 383, Affd 253 F.2d 1295 (3rd Circuit 1968); United States v. O'Dell, 160 F. 2d 304, 307 (6th Cir. 1947); Goodwin v. United States, 935 F.2d 1061 (9th Cir. 1991); Kulway v. United States, 917 F.2d 729, 735 (2nd Cir. 1990). O'Dell and Kulway decisions are relied on most.

Underlying Compromise of the U.S. Marshal

One of the cruelest hoaxes ever has been perpetrated against what are generally capable, loyal Americans now employed in capacities that used to exercise legitimate law enforcement authority of United States Government, United States marshals and their deputies. The position of United States Marshal was created in 1789; the U.S. marshal and his deputies had the same powers in the several States as the State or county sheriff, as applicable, when and if there was legitimate United States jurisdiction. However, the United States Marshal, as an independent office, was abolished, with the successor merged into

the Department of Justice under direction of the Attorney General, by Public Law 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 619. This 1966 act was amended by Pub.L. 95-530, § 2, Oct. 27, 1978, 92 Stat. 2028, which related to appointment, term, and residence of United States Marshals, the 1978 act repealed by Pub.L. 100-690, Title VII, § 7608(a)(1), Nov. 18, 1988, 102 Stat. 4512. Pub. L. 100-690 governs most activity of what is now the United States Marshals Service in the Department of Justice. The United States Marshals Service, except within the narrow range of authority vested in the Department of Justice and/or the Attorney General, no longer has authority under laws of the United States as they might apply to the Union of several States in the framework of Congress' general legislative authority delegated primarily in Article I § 8 of the Constitution. Sections of the United States Code which reflect authority of the U.S. Marshals Service are at 28 U.S.C. §§ 561-569. Space will be dedicated to analysis of these sections, as applicable in the framework of this effort, because the office of United States Marshal was the original civil enforcement authority of the United States, where today the United States Marshals Service has considerably different character and jurisdiction.

Basic authority, and chain of command, for the United States Marshals Service is at 28 U.S.C. § 561, reproduced in relative part below:

§ 561. United States Marshals Service

(a) There is hereby established a United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. There shall be at the head of the United States Marshals Service (hereafter in this chapter referred to as the "Service") a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The Director of the United States Marshals Service (hereafter in this chapter referred to as the "Director") shall, in addition to the powers and duties set forth in this chapter, exercise such other functions as may be delegated by the Attorney General.

(c) The President shall appoint, by and with the advice and consent of the Senate, a United States marshal for each judicial district of the United States and for the Superior Court of the District of Columbia, except that any marshal appointed for the Northern Mariana Islands may at the same time serve as marshal of another judicial district. Each United States marshal shall be an official of the Service and shall serve under the direction of the Director.

[(d) & (f) not reproduced]

(g) The director shall supervise and direct the United States Marshals Service in the performance of its duties.

[(h) & (i) not reproduced]

The old authority of the United States marshal appears to be conveyed to the United States marshals at 28 U.S.C. § 564, but this is an illusion that is dispelled by examination of underlying authorities:

§ 564. Powers as sheriff

United States marshals, deputy marshals and such other officials of the Service as may be designated by the Director, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.

The term "State" in § 564 is all-important as the reference is to insular possessions of

the United States, not to the Union of several States. This conclusion will be demonstrated in due course.

The first check on authority is to consult the Parallel Table of Authorities and Rules, which begins on page 721 of the Index volume of the Code of Federal Regulations, 1996 edition. If there were implementing regulations for 28 U.S.C. §§ 561-569, they would be on page 768. However, these sections of the United States Code are not listed, so there are no applicable delegations of authority or implementing regulations for any of the sections. However, there are regulations applicable under two of the three Public Laws listed above, the first being Pub. L. 89-544 (1966): On page 818 of the 1996 CFR Index volume, it is found that sections of the 1966 law not repealed by subsequent acts are under the implementing regulation at 32 CFR § 716.

By referencing the List of CFR Titles, Chapters, Subchapters, and Parts, beginning on page 831 of the 1996 Index, it is found that Title 32 of the Code of Federal Regulations pertains to National Defense, and § 716 is in Chapter VI — Department of the Navy (Parts 700-799); § 716 is in Subchapter C — Personnel, and § 716 specifies a "Death gratuity."

Here we can demonstrate how the Code is convoluted as authority of the Attorney General, and the Federal Bureau of Investigation, is also under Pub. L. 89-544, found at 28 U.S.C. § 535, part of which is reproduced elsewhere in this discourse. It is reproduced in its entirety below:

§ 535. Investigation of crimes involving Government officers and employees; limitations.

(a) The Attorney General and the Federal Bureau of Investigation may investigate any violation of title 18 involving Government officers and employees —

(1) notwithstanding any other provision of law; and

(2) without limiting the authority to investigate any matter which is conferred on them or on a department or agency of the Government.

(b) Any information, allegation, or complaint received in a department or agency of the executive branch of the Government relating to violations of title 18 involving Government officers and employees shall be expeditiously reported to the Attorney General by the head of the department or agency, unless

(1) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law; or

(2) as to any department or agency of the Government, the Attorney General directs otherwise with respect to a specified class of information, allegation, or complaint.

(c) This section does not limit —

(1) the authority of the military departments to investigate persons or offenses over which the armed forces have jurisdiction under the Uniform Code of Military Justice (chapter 47 of title 10); or

(2) the primary authority of the Postmaster General to investigate postal offenses.

Obviously, Pub. L. 89-554 has intragovernmental application, it does not apply to the Union of several States and the population at large. This is verified by consulting the Parallel Table of Authorities and Rules, at page 767 of the 1996 CFR Index volume: 28 U.S.C. § 535 is not listed. Therefore, the only general application for Pub.L. 89-554, whether at 28 U.S.C. §§ 535, 561, or any other section of the United States Code, is limited to 32 CFR § 716. The exception is that heads of departments of United States government may pro-

mulgate intradepartmental regulations as pertains to their respective departments under authority of 5 U.S.C. § 301.

Using this authority verification, we will consider authority of the United States Marshals Service for 28 U.S.C. §§ 561-569 under the 1988 act, Pub.L. 100-690, found in the Parallel Table of Authorities and Rules in the 1996 CFR Index volume at page 822. In order to simplify matters, the Parallel Table of Authorities and Rules-cited regulations are listed to the left, then the regulation is described from the List of CFR Titles, Chapters, Subchapters, and Parts to the right. The authority to the right will be in that order: CFR title; subtitle, where applicable; chapter; subchapter, where applicable; and part.

7 CFR § 3017 Agriculture; Chapter XXX— Office of Finance and Management, Department of Agriculture (Parts 3000 — 3099); Governmentwide Department and suspension (non-procurement) and governmentwide requirements for drug-free workplace (grants).

10 CFR § 1036 Energy; Chapter X — Department of Energy (General Provisions) (Parts 1000-1099); Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

12 CFR § 516 Banks and Banking; Chapter V — Office of Thrift Supervision, Department of the Treasury (Parts 500-599); Application processing guidelines and procedures.

13 CFR § 145 Business Credit and Assistance; Chapter I — Small Business Administration (Parts 1-199); Government debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

14 CFR § 1265 Aeronautics and Space; Chapter V — National Aeronautics and Space Administration (Parts 1200-1299); Government wide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

21 CFR § 1316 Food and Drugs; Chapter II — Drug Enforcement Administration, Department of Justice (Parts 1300-1399); Administrative functions, practices, and procedures.

22 CFR § 51 Foreign Relations; Chapter I — Department of State (Parts 1-199); Subchapter F — Nationality and Passports; Passports.

22 CFR § 137 Foreign Relations; Chapter I — Department of State (Parts 1-199); Subchapter N — Miscellaneous; Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

22 CFR § 310 Foreign Relations; Chapter III — Peace Corps (300-399); Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

22 CFR § 1006 Foreign Relations; Chapter X — Inter-American Foundation (Parts 1000-1099); Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

28 CFR § 32 Judicial Administration; Chapter I — Department of Justice (Parts 0-199); Public Safety Officers' death and disability benefits.

28 CFR § 67 Judicial Administration; Chapter I — Department of Justice (Parts 0-199); Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

29 CFR § 98 Labor; Subtitle A — Office of the Secretary of Labor (Parts 0-99); Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

29 CFR § 1471 Labor; Subtitle B — Regulations Relating to Labor; Chapter XII — Fed-

eral Mediation and Conciliation Service (Parts 1400-1499); Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

31 CFR § 19 Money and Finance: Treasury; Subtitle A — Office of the Secretary of the Treasury (Parts 0-50); Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

33 CFR § 1 Navigation and Navigable Waters; Chapter 1 — Coast Guard, Department of Transportation (Parts 1-199); General provisions.

36 CFR § 1209 Parks, Forests, and Public Property; Chapter XII —National Archives and Records Administration (Parts 1200-1299); Subchapter A — General Rules; Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

44 CFR § 17 Emergency Management and Assistance; Chapter I — Federal Emergency Management Agency (Parts 0-399); Subchapter A — General; Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

Primary concern of the U.S. Marshals Service is governmentwide debarment and suspension, and governmentwide requirements for a drug-free workplace, as applicable. There is very little more of significance that can be applicable to the Union of several States party to the Constitution, and the general population. However, the U.S. Marshals Service has essentially the same authority as a state civil enforcement agency in the District of Columbia and insular possessions of the United States. This is generally the case for Federal civil enforcement agencies, including the FBI, DEA, IRS, BATF, U.S. Customs Service, and in peacetime, the Coast Guard.

The question as to why the office of the U.S. Marshal was convoluted is reasonably easy to demonstrate, as the U.S. Marshals Service deals in "public money", per 28 U.S.C. § 567:

§ 567. Collection of fees; accounting

(a) Each United States marshal shall collect, as far as possible, his lawful fees and account for the same as public moneys.

As used in § 567, the term "public money" is a word of art. It doesn't mean what it would appear to mean to the unschooled reader. Public money is predicated on obligations of the United States, not lawful coin of the United States. In other words, under provisions of § 567, the U.S. Marshals Service is one of the key agencies through which private assets outside lawful jurisdiction of the United States, as United States government now operates, are converted as though they belonged to the United States to begin with, which is hardly the case. The convoluted money system is beyond the scope of the present effort, but those who would like to pursue the matter further should read 31 CFR §§ 202-215 as these regulations, the first of which apply to National Banking Associations and other Federal Reserve-member financial institutions qualifying as Federal Tax and Loan Depositaries, have an excellent definitive statement concerning "public money" — only officers and employees of the United States and United States political subdivisions are entitled to receive "public money". Public money is exclusive of the Federal Reserve Note — the only law found to date which makes the Federal Reserve Note a lawful "currency" is the Uniform Commercial Code, "adopted" by legislatures of each of the several States by the time Pub. L. 89-554 was promulgated in 1966. By the early 1970s, the Federal Reserve

Note was not acceptable for payment of taxes legitimately due the United States. The 31 CFR regulations cited above also provide reasonably complete listings of people subject to State and Federal "income" taxes, a/k/a "normal" tax.

The Constitution has never been amended, it still prescribes gold and silver coin as the lawful national currency. The key provisions are as follows: [Art. I § 8.5] "[The Congress shall have Power] To coin Money, regulate the Value thereof, and of foreign Coin [and, at § 8.6] To provide for the Punishment of counterfeiting the Securities and current Coin of the United States..," then at § 10.1, the door is closed by the following: "No State shall ... make any Thing but gold and silver Coin a Tender in Payment of Debts..."

Therein is the crux of the matter: Congress may do as Congress pleases, within the framework of international law, with respect to admiralty and maritime jurisdiction, territories and insular possessions of the United States deemed as territory or otherwise subject to sovereignty of the United States under Article IV § 3.2, and with rules and regulations pertaining to government of the United States. (see 5 U.S.C. § 301 pertaining to regulations for government departments; authority for presidential executive orders at 3 U.S.C. § 301; and the Federal Register Act, at 44 U.S.C. §§ 1501 et seq., for publishing requirements and exemptions; 44 U.S.C. § 1510 as authority for the Parallel Table of Authorities and Rules, the CFR listing, etc.)

For a reality check, we'll examine powers and duties of U.S. Marshals who are now part of the U.S. Marshals Service rather than serving in their respective independent offices:

§ 566. Powers and duties

(a) It is the primary rule and mission of the United States Marshals Service to provide for the security and to obey, execute, and enforce all orders of the United States District Courts, the United States Courts of Appeals and the Court of International Trade...

Compare authority of the U.S. Marshals Service to authority for appointing probation officers, at 18 U.S.C. § 3602:

3602. Appointment of probation officers

(a) Appointment. — A district court of the United States shall appoint qualified persons to serve, with or without compensation, as probation officers within the jurisdiction and under the direction of the court making the appointment. The court may, for cause, remove a probation officer appointed to serve with compensation, and may, in its discretion, remove a probation officer appointed to serve without compensation.

The chief responsibility of the United States Marshals Service is to attend orders of United States District Courts; the probation officer is appointed by [the judge or judges of] a district court of the United States. One does not have the same "venue" (territorial jurisdiction) as the other save as might be applicable to elected and appointed officers and employees of the United States. The United States Marshals Service, as opposed to the independent office of the United States Marshal prior to 1966, is basically territorial so far as jurisdiction is concerned. Where what amount to regulations determining conduct and powers of the U.S. Marshal are now promulgated by the Director of the United States Marshals Service, regulations governing conduct of the probation officer are promulgated by the Director of the Administrative office of the United States Courts. Regulations governing conduct of both have effectively been hidden, but the fact that the United States Marshals Service carries out orders of United States District Courts rather than district

courts of the United States is a determining factor.

Thanks to another researcher and friend, Paul Mitchell, who recently moved from Arizona to Texas, we have a revealing opinion by a United States District Court judge in Eastern Metals Corporation v. Martin, 191 F. Supp. 245 (1960):

A United States District Court is an "inferior" court, i.e., inferior to the United States Supreme Court. The District Court is a tribunal created by Congress under the power given to Congress by Article 1, Section 8, Clause 9, of the United States Constitution, which provides that Congress shall have power "to constitute Tribunals inferior to the supreme Court". Romero v. International Terminal Operating Co., 358 U.S. 354, 79 S.Ct. 468, 3 L.Ed. 368 [1959]. The creation and composition of the United States District Courts is presently set forth in Title 28 U.S.C. Sec. 132. A United States District Court has only such jurisdiction as the Congress confers upon the court.

The general jurisdiction of United States District Courts is set forth in Title 28 U.S.C. Chap. 85 (Secs. 1331 to 1360). Other statutes, not pertinent, confer jurisdiction on the District Courts in certain types of actions. On this motion we are concerned with Section 1332 of Title 28 U.S.C. — the Diversity of Citizenship section, in particular subdivision (a)(1) of that section, relating to actions between citizens of different states.

To test the ruling, and establish the point at issue, we'll examine § 1332 in relative part:

§ 1332. Diversity of citizenship; amount in controversy; costs

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $75,000, exclusive of interests and costs, and is between —

(1) citizens of different States;

[(a)(2) through (c) not reproduced]

(d) The word "States", as used in this section, includes the Territories, the District of Columbia, and the Commonwealth of Puerto Rico.

The good judge in Eastern Metals Corporation v. Martin disclosed that the United States District Court is a legislative court, not an Article III judicial court; 28 U.S.C. § 1332(d) confirms that this section of Title 28 is applicable exclusively in the District of Columbia and insular possessions subject to sovereignty of the United States by virtue of the territorial clause. The United States District Court is not only a legislative court, it must of necessity be a territorial court. Therefore, while the ruling in Eastern Metals is accurate, it is incomplete by omission. By supplying what is missing from the decision, we are able to demonstrate that the United States Marshals Service now functions primarily in the District of Columbia and insular possessions of the United States. So far as the several States party to the Constitution are concerned, the U.S. Marshals Service operates on the Attorney General's coattails, per 28 U.S.C. § 535, and has authority relating only to officers and employees of United States government.

Per The United States Government Manual, 1996/97 edition, the Director of the United States Marshals Service is or was Eduardo Gonzalez; headquarters of the Service is at 600 Army Navy Drive, Arlington, VA 22202-4210, Phone (202) 307-9065. Intragovernmental regulations governing conduct of the Service have not yet been secured, but are presumed to be those listed above. Anyone wishing to independently secure rules and regulations promulgated by the Director should contact the Mr. Gonzalez or his successor.

Territorial Jurisdiction of Federal Law Enforcement Community

The United States Marshals Service was treated separately to demonstrate how the most basic institutions of United States Government have been perverted, and how some of the nation's most patriotic, competent people can be duped by Cooperative Federalism legalese and mumbo-jumbo. Some in each enforcement agency no doubt know limits of legitimate Federal enforcement powers, but I am convinced that the vast majority don't. The reason they don't is the same reason most Americans don't: We as a people simply don't know the fundamental law of the land, the Constitution of the United States. Therefore, it will be an advantage to go to the Constitution to document what enforcement authority Federal civil enforcement agencies would or should have if government of the United States was operating in the framework of what constitutionally enumerated powers.

First, we will concede that the United States has subject matter jurisdiction in the several States to enforce laws of the United States enacted under Article I general authority. The U.S. Marshal was the principal civil enforcement officer from the beginning. A few other agencies such as the Treasury of the United States, the customs service, etc., had legitimate enforcement authority relative to enumerated powers. But in general, most crimes in the several States, including counterfeiting and what would otherwise be considered Federal crimes, were enforced by the several States respectively. Each State still has mail fraud laws and the like, and authority to enforce them — each has laws against treason. But in the convoluted maze that emerged in the 1930s and after, the Constitution was quietly and systematically pushed aside. Today the several States are overrun by Federal civil enforcement agencies of every kind and description.

In order to tackle this problem in the most expedient manner, we'll focus on emergencies where the United States may have general enforcement presence in one or more of the several States. This is addressed in two places. The first is at Article I, Sec. 8, clause 15:

[The Congress shall have Power] To provide for calling forth the Militia to execute the laws of the Union, suppress Insurrections and repel Invasions;

The second is at Article IV Sec. 4:

Section 4. The Unite States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasions; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

The Constitution vests Congress with authority to call out the militia (1) to execute the laws of the United States when there is general resistance to legitimate Federal law, (2) to suppress insurrection, which is rebellion, and (3) to repel invasion of a foreign power. Note that the Militia, not the standing army and not civil enforcement agencies, must be used for the purposes specified. In Article IV § 4, the Constitution stipulates that the legislature of a State, or the chief executive when the legislature cannot be convened, is responsible for asking for assistance in the event of civil uprising or rebellion. Congress may not unilaterally send the militia into one of the several States where the dispute is with State government and does not involve invasion of foreign forces. These constitutional provisions are specific with respect to where authority lies, and what force can be exercised. There has been no amendment.

With these provisions established, we will consider current regulations relating to "Emergency Federal Law Enforcement Assistance". The assistance will be reviewed by way of 28 CFR, Part 65, "Emergency Federal Law Enforcement Assistance", promulgated by the Attorney General, with listed authorities as follows: The Comprehensive Crime Control Act of 1984, Title II, Chap. VI, Div. I, Subdiv. B, Emergency Federal Law Enforcement Assistance, Pub. L. 98-473, 98 Stat. 1837, Oct. 12, 1984 (42 U.S.C. 10501 et seq.); 8 U.S.C. 1101 note; Sec. 610, Pub. L. 102-140, 105 Stat. 832.

I've checked regulatory authorities in the Parallel Table of Authorities and Rules, but won't go through the reproduction exercise in this section. For those who wish to consult regulations, they are as follows: Pub. L. 102-140, no general application regulations; Pub. L. 98-473, 13 CFR § 123, 14 CFR § 36, 24 CFR § 13, 25 CFR § 20 & 28 CFR § 32; 8 U.S.C. § 1101 note, 8 CFR §§ 245, 324 & 343a; 42 U.S.C. § 10501, 28 CFR § 65.

Subpart A of 28 CFR § 65 is as follows:

Subpart A — Eligible Applicants

§ 65.1 General.

This subject describes who may apply for emergency Federal law enforcement assistance under the Justice Assistance Act of 1984.

§ 65.2 State Government.

In the event that a law enforcement emergency exists throughout a state or part of a state, a state (on behalf of itself or a local unit of government) may submit an application to the Attorney General, for emergency Federal law enforcement assistance. This application is to be submitted by the chief executive officer of the state, in writing, on Standard Form 424, an in accordance with these regulations.

Available assistance is in Subpart B, § 65.12:

§ 65.12 Other assistance.

In accordance with the purposes and limitations of this subdivision, members of the Federal law enforcement community may provide needed assistance in the form of equipment, training, intelligence information, and personnel. The application may include requests for assistance of this nature.

Purpose, etc., are stated in Subpart C:

§ 65.20 General.

The purpose of the Act is to assist state an/or local units of government which are experiencing law enforcement emergencies to respond to those emergencies through the provisions of Federal law enforcement assistance. The authority and responsibility for implementation of this section is vested in the Attorney General of the United States.

§ 65.21 Purpose of assistance.

The purpose of emergency Federal law enforcement assistance is to provide necessary assistance to (and through) a state government to provide an adequate response to an uncommon situation which requires law enforcement, which is or threatens to become of serious or epidemic proportions, an with respect to which state and local resources are inadequate to protect the lives and property of citizens, or to enforce the criminal law.

Several flaws are immediately obvious: Authority the Constitution vests in Congress hasn't been delegated simply to the President, but to the Attorney General; the act vests responsibility for determining the need for Federal assistance in the governor of any given State without regard for whether or not the legislature can be convened; and a governor

may request assistance not just in the event of actual rebellion or domestic violence, but merely on the possibility of disturbance State or local officials might not be able to cope with. The call for help may go out for assistance in enforcing criminal laws. The Attorney General is the head of a civil agency of United States government, the Department of Justice, who has little or no authority over the militia. The Attorney General is vested with authority to investigate crimes by officers and employees of government of the United States (28 U.S.C. § 535), and does not have general enforcement authority in the several States for any other purpose.

A clue to application of this act is revealed in Subpart G — Repayment of Funds, § 65.60:

§ 65.60 Repayment of funds.

(a) If Federal law enforcement assistance provided under this subdivision is used by the recipient of such assistance in violation of these regulations, or for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the Attorney General an amount equal to the value of such assistance.

(b) The Attorney General may bring a civil action in an appropriate United States District Court to recover any amount authorized to be repaid under law.

There are only three remaining legitimate United States District Courts, defined as courts of the United States at 18 U.S.C. § 23: The District Courts of Guam, the Northern Mariana Islands, and the Virgin Islands. Where there is no authority to file a "civil action" for recovery in an Article III district court of the United States, the regulation, and the Comprehensive Crime Control Act of 1984, are clearly applicable only in territory of the United States, chiefly insular possessions.

We will now consider the list of agencies in the Federal law enforcement community. The list is in definitions at § 65.70(c), with "State" defined at § 65.80(d):

(c) Federal law enforcement community. The term Federal law enforcement community is defined by the Act as the heads of the following departments or agencies:

(1) Federal Bureau of Investigation;

(2) Drug Enforcement Administration;

(3) Criminal Division of the Department of Justice;

(4) Internal Revenue Service;

(5) Customs Service;

(6) Immigration an Naturalization Service;

(7) U.S. Marshals Service;

(8) National Park Service;

(9) U.S. Postal Service;

(10) Secret Service;

(11) U.S. Coast Guard;

(12) Bureau of Alcohol, Tobacco, and Firearms; and,

(13) Other Federal agencies with specific statutory authority to investigate violations of Federal criminal law.

(d) State. The term state is defined by the Act as any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

The definition of the term "state" at § 65.80(d) is the final and conclusive clue as to scope of the Comprehensive Crime Control Act of 1984. It has legitimate application exclusively under Congress' plenary power in territory of the United States, Article IV § 3.2 of the Constitution. If there was any doubt, the mix of agencies above is ultimately condemning. Most have been already been treated: The FBI was created administratively within the Department of Justice in 1908; the DEA was created by a Presidential reorganization plan; the Criminal Division of the Department of Justice has only authority vested in the Attorney General by statute; since 1966, the U.S. Marshals Service has been a Department of Justice agency with primary responsibility in insular possessions of the United States; the IRS and BATF, and possibly the Secret Service, are agencies of the Department of the Treasury, Puerto Rico; and the Coast Guard is at all times a military department whether under administration of the Navy or the Department of Transportation. Not one of them have legitimate inland enforcement authority in the Union of several States save the possibility of investigating and prosecuting crimes by officers and employees of government of the United States.

We are intentionally ignoring the U.S. Postal Service and the Immigration and Naturalization Service as they haven't been addressed in the context of this work, but rest assured that both of these entities have been convoluted and have no more legitimate authority in the several States than other Federal civil enforcement agencies.

Now we will turn to 28 CFR, Part 60 — Authorization of Federal Law Enforcement Officers to Request the Issuance of a Search Warrant. Authority is listed as Rule 41(h), Fed.R.Crim.P. (18 U.S.C. appendix).

Rule 41 prescribes particulars relating to search and seizure, with 41(h) as follows:

(h) Scope and definitions. This rule does not modify any act, inconsistent with it, regulating search, seizure and the issuance and execution of search warrants in circumstances for which special provision is made. The term "property" is used in this rule to include documents, books, papers and any other tangible objects. The term "daytime" is used in this rule to mean the hours from 6:00 a.m. to 10:00 p.m. according to local time. The phrase "federal law enforcement officer" is used in this rule to mean any government agency, other than an attorney for the government as defined in Rule 54(c), who is engaged in the enforcement of the criminal laws and is within any category of officers authorized by the Attorney General to request the issuance of a search warrant.

We previously demonstrated that Congress delegated legislative authority to the Supreme Court when providing that promulgation of rules by the Supreme Court would repeal any law in conflict with rules the Supreme Court enacted (28 U.S.C. § 2072(b)). Here we find that by way of Federal Rules of Criminal Procedure, the Supreme Court has delegated authority to the Attorney General that isn't delegated by Congress or the President. By now that shouldn't seem to be particularly inconsistent with the way government of the United States has operated the last sixty-plus years — the President has authority to abolish and create agencies as he pleases, contrary to Article I § 8.18 of the Constitution — so we shouldn't be surprised if the Supreme Court quietly assumes authority, which amounts to usurpation of power, belonging to both Congress and the President. Another case of, "Button, button, who has the button?"

Fortunately, we've already demonstrated that Federal Rules of Criminal Procedure are applicable only in territorial courts of the United States, the United States District Courts

of Guam, the Northern Mariana Islands, and the Virgin Islands, and that applications at F.R.Crim.P. 54(c) lock the matter down when it comes to territorial authority:

(c) Application of Terms. As used in these rules the following terms have the designated meanings.

"Act of Congress" includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession.

"State" includes District of Columbia, Puerto Rico, territory and insular possession.

We don't want to get too carried away, but reproducing a portion of the purpose statement at 28 CFR § 60.1 will anchor the case:

§ 60.1 Purpose.

This regulation authorizes certain categories of federal law enforcement officers to request the issuance of search warrants under Rule 41, Fed. R. Crim. P., and lists the agencies whose officers are so authorized. Rule 41(a) provides in part that a search warrant may be issued "upon the request of a federal law enforcement officer," and defines that term in Rule 41(h) as "any government agent, *** who is engaged in the enforcement of the criminal laws and is within the category of officers authorized by the Attorney General to request the issuance of a search warrant." The publication of the categories and the listing of the agencies is intended to inform the courts of the personnel who are so authorized...

It would seem prudent on the part of the Supreme Court had this authority been vested in the President, and the President then delegated authority to the Attorney General, but maybe all three branches of Federal government at some point decided it's fine to be expedient when it serves whatever purpose is at hand. However, more than intent, I suspect the catch-as-catch-can mode of doing things is symptomatic of the extremely thin ice government of the United States has been on since supposing to rule unincorporated insular possessions. Distribution of responsibilities and determination powers has never really been resolved. However, demonstrating territorial limits to authority for issuing warrants is made easy by definitions in 28 CFR § 60.

For purposes here, we will consider only the first four categories listed in § 60.2:

§ 60.2 Authorized categories.

The following categories of federal law enforcement officers are authorized to request the issuance of a search warrant:

(a) Any person authorized to execute search warrants by a statute of the United States.

(b) Any person who has been authorized to execute search warrants by the head of a department, bureau, or agency (or his delegate, if applicable) pursuant to any statute of the United States.

(c) Any peace officer or customs officer of the Virgin Islands, Guam, or the Canal Zone.

(d) Any officer of the Metropolitan Police Department, District of Columbia.

The list continues, but it isn't necessary to reproduce here. Next we'll consider agencies with authorized personnel, but will skip Federal agencies at § 60.3(a) as the list is approximately the same as the list comprising the Federal law enforcement community. We will reproduce only § 60.3((b), which identifies local law enforcement agencies:

(b) Local Law Enforcement Agencies:

(1) District of Columbia Metropolitan Police Department

(2) Law Enforcement Forces and Customs Agencies of Guam, The Virgin Islands, and

the Canal Zone.

I like it when people are in agreement. Congress, the Supreme Court, and the Attorney General are of one accord. We should all feel better: Authority for Federal law enforcement officers to apply for and serve search warrants is limited to territory of the United States, including the District of Columbia and insular possessions, and the Federal law enforcement community has lawful authority to provide emergency Federal law enforcement assistance only in territory subject to sovereignty of the United States. When they venture into the Union of several States brandishing warrants and guns, save on Federal enclaves properly ceded to the United States, they are covered only by the color of law, not the cloak of law. This is the only conclusion consistent with powers enumerated in and distributed by the Constitution.

There are very few flaws or incongruities in the laws and regulations of the United States. The system was constructed with meticulous care, and is maintained to preserve the integrity of the legitimate constitutional system. If and when there is error, it lies with those who exceed constitutionally delegated authority supported by statutes and regulations of United States government. Those who usurp authority, whether knowingly or unknowingly, bear the burden of civil and criminal liability for injury to the sovereign American people.

End Game Alternatives

There is no question that the sovereign people of this nation have been victimized by a silent economic war through most of the twentieth century. In the last four decades, institutionalized aggression has become increasingly bolder. If the de facto system continues unabated, only a small political and financial privileged class will enjoy prosperity and liberty — not liberty ordinary people seek, but what amounts to license for plunder.

If we look to history's record of Vandals, despots, and tyranny in general, we might be tempted to ask, "What's new?" The answer to that lies in the Declaration of Independence, where American founders justified severance from British rule by the "Laws of Nature, and of Nature's God," and the carefully crafted Constitution of the United States that established the rule of law rather than the capricious nature of man. Constitutional limitations and over eight centuries of English-American common law heritage provide the vehicles and means to peacefully restore constitutional rule.

When Article III courts of the United States were authorized by judiciary acts of 1789 & 1792, they were established as common law courts. Rather than adopt the divergent process that evolved in each of the several States, courts of the United States proceeded in the course of the common law as it was in England at the time, thereby preserving the purer form. Rights secured by the Bill of Rights, the first Ten Articles of Amendment, presumed preservation of what in many cases were ancient writs, and other remedies developed to address usurpation of power.

There are certain maxims of law to be understood. One of considerable import is that he who has no rights has no remedies. Conversely, he who has a right is presumed to have an appropriate remedy. This, then, is the force of the Bill of Rights — it preserves and thereby prescribes the remedy assumed by the secured right.

In a very real sense, law is a dead letter. Once it is written, it thereafter means what it meant at the time it was written. It does not evolve of its own accord — it must be amended

or replaced before the law itself changes. The Bill of Rights has not been amended or repealed, so the presumed remedies are preserved.

Consider the word "casket". In old and middle English, a casket was a jewel box. Today we bury people in "caskets" — family and others we have affection for are "precious," so are preserved in a box built to hold and protect precious things. The term "casket" has evolved in meaning so far as contemporary use is concerned, but works of old masters did not evolve with it. If Chaucer used the word "casket", he was talking about a jewel box regardless of what understanding a twentieth century reader might have of the term.

This has been and is one of the great difficulties where coming to grips with law is concerned. Both in rem and in personam are admiralty and maritime actions that proceed in the course of the civil law. The terms aren't generally understood and are frequently misused. Then there is the case of hiding secrets in plain view by use of familiar terms — United States District Courts and the United States of America are examples. We are deceived and subdued by what we don't know, and by what we look at but don't see. Lack of knowledge and lack of vision have been crippling.

Documenting Cooperative Federalism tyranny is anything but complete. In fact, it has barely begun. But today enough essential foundation stones are in place, and the means for unraveling convoluted codes are known, so competent people can finish the task in reasonably short order. It is a task that must be engaged with deliberate speed.

What remedies are available? Probably the most powerful is public exposure. It is no longer necessary to make constructive and hypothetical arguments. Documentary evidence proves the case against Cooperative Federalism and its perpetrators and patrons.

The First Article of Amendment secures the right to petition for redress of grievance. The right includes judicial as well as political forums. The Fourth preserves an important legal weapon — the affidavit of criminal complaint. The Fifth, Sixth and Seventh preserve due process in the course of the common law for the aggrieved as well as the defendant. Administrative remedies galore are written into law, with implications of perjury of oath, accessory after the fact, misprision of felony, and misprision of treason when those who owe allegiance to the United States fail to carry out lawful mandates of office. We have barely scratched the surface.

Finally, the Second preserves the right to own and bear arms. It wasn't included in the Bill of Rights so those willing to usurp power for self-serving ends would sleep easy. It is there so the sovereign people have the means to correct public servants who follow in the path of John, Charles, and George III. Each of us has the absolute right to defend life, liberty, and property, and if need should arise, the common good.

Another maxim: When men take up arms, law is of no consequence or effect.

There is nothing wrong with the Constitution and laws of the United States. They are worth restoring and preserving. The danger of taking up arms is that to do so makes the Constitution and laws of the United States of no effect. To abandon the rule of law is to invite worse tyranny than we have.

Does this rationale stand the acid test? When American founders appealed to the Laws of Nature and Nature's God, they recognized a higher power, knowing man cannot author or amend natural and moral law. It is self-executing, physical law operating in the framework of cause and effect, moral in the framework of cause and consequence. Man

may benefit from compliance, or suffer adverse effect and consequence from noncompliance. Truth will ultimately prevail — it will destroy the destroyer.

Cooperative Federalism defies both physical and moral law. It is predicated on a mathematically impossible economic scheme, and relies on deception and fraud. The system is destined to collapse, very probably ushering in the worst depression in American history. And the names of those responsible will be anathema for generations to come.

Dialectical materialism is an underlying precept of Cooperative Federalism. Karl Marx invented the scheme to rationalize the march of global communism, which relies on perpetual revolution rather than relative stability anchored to time-proven principles. When the Berlin Wall came down, we saw the fall of one of the central icons of the diabolical scheme. It is more than possible for peaceful restoration of constitutional rule in this nation to manifest an even greater miracle realized in our time. Dan Meador: 1108 N. 2nd. Street, Ponca City, Okla. 74601 E-mail: dmeador@poncacity.net ——————————

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1 The Federal "States" are territories and insular possessions of the United States. Since Alaska and Hawaii were admitted to the Union of several States, there are no territories of the United States as such. The remaining "insular possessions" large enough to be quasi-self-governing include Puerto Rico, Guam, the Northern Mariana Islands, American Samoa, and the Virgin Islands; the District of Columbia is also a possession of the United States, but falls in a different category as the Constitution authorizes establishing the seat of government at Article I § 8.17, where the other insular possessions have been acquired and are governed under the territorial clause at Article IV § 3.2, cited later in text. In the United States Code, Code of Federal Regulations, etc., these insular possessions are defined as "States". The insular possessions are not incorporated in the constitutional scheme as territories of the United States were, so for many purposes are considered "foreign" to the several States of the Union. This was determined in four insular tax cases in the 1901-1904 period, Downes v. Bidwell (1901) being the first.

2 Downes v. Bidwell (1901) 21 S.Ct. 770, 182 U.S. 244, 45 L.Ed. 1088.

3 Shapiro v. Thompson (1969) 89 S.Ct. 1322 at 1337, 394 U.S. 618.

4 What is referred to as the "key-question" survey in this text has been conducted periodically at least since the last decade, with the object being to track population discontent level. Both major political parties, Associated Press, and other enterprises conduct it, particularly prior to and during presidential election years. In November 1996, the "confidence" or trust level was estimated at 15%, in February 1997, at 22%. The more direct "anger" survey was initiated in 1995 by the Scripps Howard News Service. Since then, the peak in articulated "growing" or "increasing" anger with Federal government peaked at about 53%; in early July 1998, "increasing" anger was calculated at 35%, but as Al Gore and various congressional leaders articulated, much of the anger has simply turned to cynicism. The distrust level, which measures broader sentiment, has remained in the approximate 80% range. In spite of continuing efforts to register voters, no more than 40% of those eligible to vote have registered in the 1990s. Senior citizens and professionals are categories most likely to vote; working classes, the unemployed, transients of all descriptions, and younger generations are least likely.

5 Figures concerning incarceration numbers were published by the Department of Justice in 1990 and after. The Federal prison population, at 113,000 in December 1997, is

approaching five times what it was in the 1970's. As the "get tough on crime" mania continues, with most who are prosecuted in State and Federal forums charged for "victimless" crime, prison populations will continue to double at eight to ten-year intervals. Figures in the text of this discourse are reconciled with December 1997 Department of Justice Figures, and figures provided by television newsman Ted Koppel in a special on the nation's prison systems. Many of these statistics conflict with 1990 facts and figures provided by the Oklahoma Department of Corrections, supposedly from Department of Justice reports. In 1990, State and Federal systems supposedly incarcerated more people on a per-capita basis and in total numbers than any system in the world, South Africa and the old Soviet Union included. Current Department of Justice information very probably is limited to people actually incarcerated "behind the fence" or "behind the wall", without accounting for people on State and Federal supervised release, serving time either in halfway houses or county jails, or incarcerated while awaiting trial via State or Federal courts. The number actually subject to authority of State and Federal corrections systems could easily be three times published figures for imprisonment.

6 Decline of the West, Oswald Spengler, and what is called the rule of nations or law of empires: No nation or society has ever voluntarily changed unless or until internal degeneration reached a point economic collapse destroyed key social institutions, or unless or until defeated at war. Historical novelist Gore Vidal pointed out that the defeat must be on home ground. Nineteen of 21 known empires collapsed from within prior to 1935.

7 Psalm 10; II Timothy 3: 8 & 9.

8 28 U.S.C. § 132 allegedly establishes a "United States District Court" in each judicial district of the United States. However, by reading historical notes, it is found that this section merges sections from titles 28 & 48 of the United States Code, 1940 edition, with the latter pertaining to territory and insular possessions of the United States. Along with 18 U.S.C. § 7, which merely defines special maritime and territorial jurisdiction of the United States but does not prescribe jurisdiction for any given section of the criminal code, 28 U.S.C. § 132 is among the more sinister decoys in the United States Code. Article III district courts of the United States, defined at 28 U.S.C. § 451, and legitimate territorial courts listed at 18 U.S.C. § 23, are defined as courts of the United States (see 28 U.S.C. §§ 451, 610, 753, 1869(f), and elsewhere).

9 For economy of time and space, certain abbreviations are used in this text: U.S.C. = United States Code; "§" means "section" when reference is to the Constitution of the United States, the United States Code or the Statutes at Large, and "part" when reference is to the Code of Federal Regulations. Therefore, Section 451 of Title 28 of the United States Code = 28 U.S.C. § 451. When references are to the Constitution, Art. or Article IV § 3.2 = Article IV, Section 3, clause 2 of the Constitution. Other abbreviations will be clear from context or noted on first appearance.

10 See 18 U.S.C. § 23, which is 1994 legislation updating the list of three courts, and Rule 54(a), Federal Rules of Criminal Procedure, for listing of legitimate "Article IV" territorial courts which have somewhat the character and authority of Article III district courts of the United States situated in the Union of several States.

11 Mookini v. United States (1938) 58 S.Ct. 543, 303 U.S. 201, 82 L.Ed. 748, at p. 205.

12 Balzac v. Porto Rico (1922) 42 S.Ct. 343, 258 U.S. 298, 66 L.Ed. 627, at 258 U.S. 312.

13 The first paragraph of 18 U.S.C. § 3231, 1994 edition, is as follows: "The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States."

14 Congressional authority to created courts inferior to the Supreme Court is found in two clauses in the Constitution: Article I § 8.9 & Article III § 1; Congress' general authority to promulgate legislation for carrying out all powers enumerated in the Constitution is at Article I § 8.18. The Supreme Court has several times addressed the necessity of Congress creating departments and agencies of the United States, and has repeatedly declared that unless a department or agency is created by Congress, it has no legitimate authority. The leading decisions were made in the last century in Norton v. Shelby County (1866), 118 U.S. 425, 441, 6 S.Ct. 1121, and United States v. Germane (1879), 99 U.S. 508. More recent decisions affirming the necessity of legislative creation for an agency or department to have lawful authority include Pope v. Commissioner (6th Cir., 1943), and State v. Pinckney (Iowa, 1979), 276 N.W. 2d 433, 436.

15 Authority for the affidavit of bias and prejudice is evidenced at 28 U.S.C. § 144; individual judicial complaints may be filed in accordance with 28 U.S.C. § 372(c). Obviously, all district judges, senior district judges, and United States magistrate judges who participate in the "private" United States District Court located in any of the several States party to the Constitution has bias and prejudice that would compromise him or her in the lawful Article III district court of the United States. Names of those who participate in the private United States District Courts are listed in the front of local rules of civil procedure, and usually in telephone directories.

16 The territorial clause at Article IV § 3.2 of the Constitution is as follows: "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States..."

17 Several court decisions have verified that the United States Code is not "law of the United States." See Murrell v. Western Union Tel. Co., 160 F.2d 787, 788 (1947); United States v. Mercur Corporation, 83 F. 2d 178, 180 (1936); Royer's Inc. v. United States, 265 F.2d 615, 618 (1959). The Royer's case was a decade after Titles 18 & 28 were allegedly enacted as "positive law" and became "legal evidence" of law of the United States.

18 Pub. Law. No. 13, Act of June 10, 1921, Ch. 18, § 301 et seq. See particularly § 305: "Sec. 305. Section 236 of the Revised Statutes is amended to read as follows: 'Sec. 236. All claims and demands whatever by the Government of the United States or against it, and all accounts whatever in which the Government of the United States is concerned, either as debtor or creditor, shall be settled and adjusted in the General Accounting Office.'" Refer to notes following 5 U.S.C. § 5512 to see that the "Solicitor of the Treasury" was merged with functions of the Attorney General via Executive Orders, etc. The necessity for initiating civil action, as well as criminal, is tacitly stated in the Internal Revenue Code at 26 U.S.C. § 7401.

19 See Cervase v. Office of the Federal Register, 580 F.2d 1166 (1978), a Third Circuit case where John Cervase, an attorney, filed a writ of mandamus against the Office of the Federal Register to construct and publish finding aids required by the Federal Register Act (44 U.S.C. § 1510). The case was originally dismissed by the United States District Court for the District of New Jersey. Cervase appealed. The Third Circuit issued the writ of mandamus ordering the Office of the Federal Register to construct the finding aids and

the Code of Federal Regulations Index. In the decision, the court noted the purpose of the Federal Register Act (p.p. 1170-71): "But such a construction would fly in the face of the fundamental purpose of the Federal Register Act — to eliminate the problem of secret law." Regulations governing construction of the Parallel Table of Authorities and Rules are at 1 CFR § 8. Each department or agency, usually via the chief executive officer, is responsible for maintaining accuracy of the Parallel Table of Authorities and Rules, so if there is error, liability falls to the department or agency responsible for administering and enforcing any given statute. The Federal Register Act itself was originally passed following the Supreme Court's decision in Panama Refining Co. v. Ryan, 293 U.S. 388, 432-33, 55 S.Ct. 241, 79 L.Ed. 446 (1935).

20 See California Bankers Association v. Schultz, 416 U.S. 21, 39 L. Ed. 2d 812, 94 S.Ct. 1494, United States v. Mersky (1959) 361 U.S. 431, 4 L.Ed.2d, 80 S.Ct. 459, and various other cases. The Supreme Court has likened regulations to "little statutes", and has clearly stated the necessity for implementing regulations before any given statute has the force and effect of law. A statute and its implementing regulation are for all practical purposes inseparable, and one doesn't have lawful effect for general application without the other.

21 Per The United States Government Manual, 1996/97 edition, L. Ralph Mecham presently serves as Director of the Administrative Office of the United States Courts. Inquiries should be sent to the Administrative Office of the United States Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE., Washington, DC 20544. The telephone number for the Congressional, External, and Public Affairs Office, which is not split, is (202) 273-1120. As of October 1, 1998, people in the Public Information Office have been difficult to move, but the problem should be resolved shortly.

22 Wayman v. Southard (1825) 23 U.S. 1, 6 L.Ed. 253

23 Where Federal Rules of Criminal Procedure are concerned, the Supreme Court order of December 27, 1948 amended the rules to apply to the United States District Courts rather than district courts of the United States: "1. That the title of the Federal Rules of Criminal Procedure be, and it hereby is, amended to read as follows: Rules of Criminal Procedure for the United States District Courts." The order of December 26, 1944 reads as follows: "It is ordered that Rules of Criminal Procedure for the District Courts of the United States..." Where the rules of civil procedure are concerned, the following is found in the order of December 29, 1948: "1. That the title 'Rules of Civil Procedure for the District Courts of the United States' be amended to read 'Rules of Civil Procedure for the United States District Courts'." These orders are reproduced ahead of rules of procedure in West Publishing desktop editions of titles 18 & 28 of the United States Code, and the 1994 edition of the United States Code.

24 In the official historical report on the nation's revenue laws, the Commissioner of Internal Revenue admitted that Congress never created the Bureau of Internal Revenue, predecessor of IRS & BATF. See 36 F.R. 849-890 [C.B. 1971-1,698], 36 F.R. 11946 [C.B. 1971 — 2,577], and section 1111.2 of the Internal Revenue Manual 1100. The best the Commissioner could do is allude to Congressional intent in 1862 even though there is no independent evidence of Congressional intent to create a new and separate tax collection agency. Revenue officers were independently appointed in their respective districts until implementation of the Internal Revenue Code of 1954. This is confirmed in the presidential letter following Reorganization Plan No. 1 of 1952, published following 26 U.S.C. §

7804.

25 United States v. Constantine (1935), 296 U.S. 233.

26 In September 1995, William Cooper and Bill Bentson of Arizona published evidence that the Bureau of Internal Revenue, predecessor of IRS, is an agency of the Department of the Treasury, Puerto Rico. Their research documented when and how BIR, Philippines was established, but the precise time BIR, Puerto Rico was established was lost in the shuffle. However, a major breakthrough in this search was recently made: In 1900, Congress created the Puerto Rico Special Fund (Internal Revenue), then in 1934, stipulated that all "funds" would be "trusts", i.e., Puerto Rico Trust #62 (Internal Revenue), which is now administered by the Secretary of the Treasury (see Title 31, U.S.C.). It is almost certain that the provisional government for Puerto Rico created the Bureau of Internal Revenue, Puerto Rico in 1900 or shortly thereafter. As researchers gain access to records of the Puerto Rican provisional government, which operated under directive of what is now the Department of Defense, they are almost certain to find authority which created BIR, Puerto Rico, thus nailing the last element in this search down. The recent finds were by J. Halsbrook.